

Bauman, Donald

October 25, 2016

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UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF WASHINGTON
AT SEATTLE

CIVIL ACTION FILE NO.: 2:14-CV-01884-MJP

TRACY JAHR, BRENDA THOMAS,
TIMOTHY LEE YORK, and W. BRETT
ROARK,

Plaintiffs,

-vs-

UNITED STATES OF AMERICA,

Defendant.

DEPOSITION OF
DONALD BAUMAN

Tuesday, October 25, 2016
Commencing at 9:00 a.m.
Concluding at 11:43 a.m.

United States Attorney's Office
22 Barnard Street
Savannah, Georgia 31401

Reported by Barbara J. Memory, RPR, CCR

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<p style="text-align: right;">2</p> <p>1 APPEARANCES</p> <p>2</p> <p>3</p> <p>4 BRIAN C. BROOK, ESQUIRE</p> <p>5 Clinton Brook & Peed</p> <p>6 641 Lexington Avenue, 13th Floor</p> <p>7 New York, New York 10022</p> <p>8 212.328.9559</p> <p>9 Brian@clintonbrook.com</p> <p>10</p> <p>11 Appearing on behalf of the Plaintiffs</p> <p>12</p> <p>13 KRISTIN B. JOHNSON, ESQUIRE</p> <p>14 Assistant United States Attorney</p> <p>15 U.S. Department of Justice</p> <p>16 700 Stewart Street, Suite 5220</p> <p>17 Seattle, Washington 98101</p> <p>18 206.553.7970</p> <p>19 Kristin.b.johnston@usdoj.gov</p> <p>20</p> <p>21 Appearing on behalf of the Defendant</p> <p>22</p> <p>23 Also Present: Brenda Thomas, Plaintiff</p> <p>24</p> <p>25</p>	<p style="text-align: right;">4</p> <p>1 INDEX OF PLAINTIFFS' EXHIBITS</p> <p>2</p> <p>3 No. Description Page</p> <p>4 Exhibit 33 Bates numbers DA0001 through 76</p> <p>5 DA00012</p> <p>6</p> <p>7 Exhibit 34 Bates numbers JAHR0043521 78</p> <p>8 through JAHR0043529</p> <p>9 Exhibit 35 Bates numbers JAHR0043386 81</p> <p>10 through JAHR0043515</p> <p>11</p> <p>12 - - -</p> <p>13 (EXHIBITS RETAINED BY MR. BROOK)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">3</p> <p>1 INDEX OF EXAMINATIONS</p> <p>2 Page</p> <p>3 DONALD BAUMAN</p> <p>4 Examination By Mr. Brook 5</p> <p>5</p> <p>6 - - -</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">5</p> <p>1 DONALD BAUMAN,</p> <p>2 having been produced and first duly sworn,</p> <p>3 testified as follows:</p> <p>4 EXAMINATION</p> <p>5 BY MR. BROOK:</p> <p>6 Q. Good morning. Will you please state your</p> <p>7 name and spell it for the record?</p> <p>8 A. CW4 Donald Bauman, B-A-U-M-A-N.</p> <p>9 Q. Have you ever been deposed before?</p> <p>10 A. No, sir. First time.</p> <p>11 Q. Okay. So I'll start by going over some of</p> <p>12 the basics of how this will work.</p> <p>13 Your testimony is under oath.</p> <p>14 A. Yes, sir.</p> <p>15 Q. You understand what that means, of course.</p> <p>16 A. Yes.</p> <p>17 Q. Unlike a normal conversation, there's a</p> <p>18 court reporter trying to transcribe everything that</p> <p>19 we say, so, one of the things that means is it's</p> <p>20 important to give verbal answers, like "yes."</p> <p>21 Do you understand?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. So nodding and "uh-huh" is another</p> <p>24 thing that drives them crazy so --</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">6</p> <p>1 Q. -- they'll -- she'll probably correct us on 2 that if we go off script.</p> <p>3 Another problem that sometimes occurs is 4 talking over each other. For example, I might be 5 still trying to finish a question and you know 6 exactly where I'm going. It's important to try to 7 let me finish, assuming I can get there. Okay?</p> <p>8 A. Okay.</p> <p>9 Q. So I will do the same thing for you.</p> <p>10 It's also important that when I ask you a 11 question that you give me a complete answer. That's 12 sort of the whole truth notion. So, for example, if 13 I asked you what you had for breakfast today and you 14 had breakfast -- or you had toast, orange juice and 15 bacon and you just said "orange juice," that would 16 not be a complete answer, although that would still 17 be technically true.</p> <p>18 A. Right.</p> <p>19 Q. Do you understand that?</p> <p>20 A. Yes.</p> <p>21 Q. There may be objections that are made by 22 the attorney sitting next to you during the course of 23 this deposition. Unless she specifically instructs 24 you not to answer a question, you should go ahead and 25 answer the questions to the best of your ability.</p>	<p style="text-align: right;">8</p> <p>1 Q. Did you review any documents in 2 preparation?</p> <p>3 A. Some of the entries that I made we 4 reviewed.</p> <p>5 Q. Are you referring to entries in the AAS or 6 CAS?</p> <p>7 A. CAS nowadays, yes.</p> <p>8 Q. Okay. Anything else?</p> <p>9 A. We briefly looked at a couple of emails, 10 but I don't think there was anything really we saw 11 that was relevant to the investigation at hand.</p> <p>12 Q. Did you bring any documents with you here 13 today?</p> <p>14 A. I did not. We did look at some -- a couple 15 of AIR entries, Agent's Investigative Reports, also.</p> <p>16 Q. Let's go into a little bit about you.</p> <p>17 Where were you born?</p> <p>18 A. Brookings, South Dakota.</p> <p>19 Q. And where did you grow up?</p> <p>20 A. I grew up in Brookings, South Dakota. Same 21 home town until I came in the Army at the age of 17.</p> <p>22 Q. And what was your first, I guess, 23 assignment in the Army?</p> <p>24 A. First duty assignment I was in aviation. I 25 was a helicopter mechanic. My first duty assignment</p>
<p style="text-align: right;">7</p> <p>1 A. Yes.</p> <p>2 Q. If any of my questions, whether objected to 3 or not, don't make sense to you, or there's something 4 you're not sure about, please ask me to rephrase it.</p> <p>5 A. Okay.</p> <p>6 Q. If you answer the question, though, I will 7 assume that you understood it. Okay?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Have you ever given testimony 10 before?</p> <p>11 A. Yes, I have testified in court before.</p> <p>12 Q. And what was that in relation to?</p> <p>13 A. Cases I've worked in the past; drug cases, 14 sexual assault cases mainly.</p> <p>15 Q. Have you ever been a party to any type of 16 lawsuit?</p> <p>17 A. No, sir.</p> <p>18 Q. Have you ever been arrested?</p> <p>19 A. No.</p> <p>20 Q. What did you do to prepare for your 21 testimony today?</p> <p>22 A. I first became aware of this maybe one to 23 two weeks ago when Ms. Johnson reached out to me. 24 And so we met yesterday briefly to discuss for two to 25 three hours. That was the only preparation.</p>	<p style="text-align: right;">9</p> <p>1 was in Fort Lewis, Washington in 1986 to '88.</p> <p>2 Q. And how long -- or you said until '88?</p> <p>3 A. I was -- I was there 14 months.</p> <p>4 And then my second duty assignment was 5 Korea. I was there a little over two years.</p> <p>6 Q. Where did you go after Korea?</p> <p>7 A. Fort Carson, Colorado. I was there two 8 years.</p> <p>9 Q. What was your responsibility at that time?</p> <p>10 A. General -- our title was crew chief, but we 11 were just a general helicopter mechanic on the 12 aircraft that I worked on, OH58.</p> <p>13 Q. At what point did your interests change to 14 criminal enforcement?</p> <p>15 A. I first started interning with CID in 1997. 16 I had an interest about one or two years before that, 17 but your unit has to give you up for six months for 18 an internship, and it took about one to two years 19 before I was in a unit that was willing to do that. 20 But I started full-time interning with CID in 1997, 21 and then at the end of 1998 I went to CID school.</p> <p>22 Q. Where was that?</p> <p>23 A. Fort McClellan, Alabama.</p> <p>24 Q. How long did that last?</p> <p>25 A. It was about four-and-a-half months.</p>

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<p style="text-align: right;">10</p> <p>1 Q. What did you do after that was up?</p> <p>2 A. My first assignment as an agent was in</p> <p>3 Hawaii. I was on economics crime team for awhile and</p> <p>4 then general crimes team. I did that for a little</p> <p>5 over one year and then went to Korea where I worked</p> <p>6 on a drug team.</p> <p>7 Q. What was your rank at the time that you</p> <p>8 first began working for CID?</p> <p>9 A. I was a staff sergeant.</p> <p>10 Q. And when you were in Korea, what was your</p> <p>11 rank?</p> <p>12 A. In Korea I was a sergeant first class, and</p> <p>13 then shortly after that, in 2001, I went to warrant</p> <p>14 officer candidate school.</p> <p>15 Q. How long did that last?</p> <p>16 A. Warrant officer candidate school is seven</p> <p>17 weeks, and then the follow-on school, which is -- it</p> <p>18 would be more CID specific -- is one month.</p> <p>19 Q. Did that change your rank when you came</p> <p>20 out?</p> <p>21 A. After the seven-week course, warrant</p> <p>22 officer school, then you become a warrant officer,</p> <p>23 W01.</p> <p>24 Q. So that replaces sergeant first class?</p> <p>25 A. Yes. That's enlisted rank. So warrant</p>	<p style="text-align: right;">12</p> <p>1 Q. What do you mean by it was considered as</p> <p>2 that?</p> <p>3 A. Your manning documents will say you're</p> <p>4 authorized four people, but generally you don't</p> <p>5 always have four. We usually had about two to three</p> <p>6 at any given time.</p> <p>7 Q. In your experience, was it -- throughout</p> <p>8 your career in CID, is it often the case that there</p> <p>9 is less staffing than is authorized?</p> <p>10 A. Yes. Usually it's -- I don't want to say</p> <p>11 it's just CID. It's more of an Army manning</p> <p>12 requirements. They usually man at about 80 percent.</p> <p>13 Q. So this is something throughout all Army</p> <p>14 departments, as far as you know, or...</p> <p>15 A. To my knowledge, yes.</p> <p>16 Q. So after Fort McPherson, where did you go?</p> <p>17 A. I was back to Korea. I spent three years</p> <p>18 there. For about one-and-a-half years I was a</p> <p>19 special agent in charge of the Camp Casey CID office,</p> <p>20 and then the other year-and-a-half I was special</p> <p>21 agent in charge of a Yongson CID office in Seoul.</p> <p>22 Q. How large were each of those offices?</p> <p>23 A. About 10 to 12 agents each.</p> <p>24 Q. And what did you do after Seoul?</p> <p>25 A. In 2011 I moved to Fort Stewart, Georgia,</p>
<p style="text-align: right;">11</p> <p>1 officer is an officer rank.</p> <p>2 Q. So after you finished your warrant officer</p> <p>3 school and the follow-on school, where did you go</p> <p>4 next?</p> <p>5 A. I stayed in Korea for two years. I was the</p> <p>6 drug team chief. And then after that, in 2003 --</p> <p>7 2003, I went to Carlisle Barracks, Pennsylvania. And</p> <p>8 I was stationed there two years as the assistant</p> <p>9 special agent in charge, however, one year out of</p> <p>10 that I was deployed.</p> <p>11 Q. Where were you deployed to?</p> <p>12 A. Afghanistan, Bagram. I was a personal</p> <p>13 security officer for one of the commanding generals.</p> <p>14 Q. So during that time did you have any role</p> <p>15 in criminal investigations?</p> <p>16 A. No, sir. Strictly personal security.</p> <p>17 Q. And when did you return from that</p> <p>18 deployment?</p> <p>19 A. I returned in early part of 2005. And then</p> <p>20 mid-2005 I was transferred to Fort McPherson,</p> <p>21 Georgia, for three years where I was the special</p> <p>22 agent in charge of the office.</p> <p>23 Q. How big was that CID office?</p> <p>24 A. That was considered a three to four-person</p> <p>25 office.</p>	<p style="text-align: right;">13</p> <p>1 took over the office. I was a special agent in</p> <p>2 charge there for one year.</p> <p>3 Q. What did you do after that year?</p> <p>4 A. In 2012 I transferred up to our group</p> <p>5 headquarters, which is in Hunter Army Airfield in</p> <p>6 Savannah. My position there was assistant operations</p> <p>7 officer.</p> <p>8 Q. What were the responsibilities of assistant</p> <p>9 operations officer?</p> <p>10 A. Mainly quality assurance reviews on -- on</p> <p>11 the cases. Our group headquarters, we have about 40</p> <p>12 subordinate offices between the eastern part of the</p> <p>13 U.S., Europe and deployed, so we conduct quality</p> <p>14 assurance reviews on the cases, and then we're kind</p> <p>15 of liaison, if need be, between the office and our</p> <p>16 command headquarters.</p> <p>17 Q. By "the office," you mean a specific CID</p> <p>18 office?</p> <p>19 A. Our subordinate offices, yes.</p> <p>20 Q. And what did you do after that role?</p> <p>21 A. That's my current position now.</p> <p>22 Q. Okay. But since 2012 you've been deployed</p> <p>23 once or twice?</p> <p>24 A. Yes, 2014 I was deployed. I was the</p> <p>25 assistant battalion operations officer on the</p>

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<p style="text-align: right;">14</p> <p>1 deployment.</p> <p>2 Q. Where were you deployed to?</p> <p>3 A. Again, Bagram, Afghanistan.</p> <p>4 Q. As the battalion operations officer, were</p> <p>5 you doing any criminal investigation work?</p> <p>6 A. Not personal investigations, but, again, it</p> <p>7 was more of a supervisory role, assisting the offices</p> <p>8 and the agents in charge of the subordinate offices.</p> <p>9 Q. And that was in Afghanistan or back here?</p> <p>10 A. Well, in Afghanistan and Kuwait, where we</p> <p>11 had our offices.</p> <p>12 Q. And when did you return from your</p> <p>13 deployment?</p> <p>14 A. August of 2014.</p> <p>15 Q. So about how long were you there?</p> <p>16 A. Eight months.</p> <p>17 Q. And have you been deployed since then?</p> <p>18 A. No, sir.</p> <p>19 Q. Were you deployed earlier this year?</p> <p>20 A. I was not.</p> <p>21 Q. Can you think of any reason why someone</p> <p>22 might have been under the impression you were</p> <p>23 deployed earlier this year?</p> <p>24 A. In 2014?</p> <p>25 Q. Yes, sir.</p>	<p style="text-align: right;">16</p> <p>1 case file to memorialize my review. And we had</p> <p>2 weekly meetings where we would go over the cases as a</p> <p>3 group, and I would also always have day-to-day</p> <p>4 interaction with my agents on a continual basis</p> <p>5 regarding our case.</p> <p>6 Q. Is the review in the case file, does that</p> <p>7 always go into the CAS?</p> <p>8 A. Yes.</p> <p>9 Q. Did you ever communicate via email with any</p> <p>10 of the agents in your office?</p> <p>11 A. Not normally -- regarding decisions on a</p> <p>12 case?</p> <p>13 Q. Regarding anything going on in a case.</p> <p>14 A. Well, we'd always send emails back and</p> <p>15 forth. But regarding a case, not normally. We were</p> <p>16 so close together in the office you could just walk</p> <p>17 down the hall and discuss it in person.</p> <p>18 Q. So what kinds of things would you email</p> <p>19 about?</p> <p>20 A. The only thing I can think of case-related</p> <p>21 would be if we were corresponding with somebody on</p> <p>22 the outside, we might CC each other so we were all up</p> <p>23 on the emails that were coming in and out.</p> <p>24 I can't really think of any instances where</p> <p>25 we would directly just communicate with each other</p>
<p style="text-align: right;">15</p> <p>1 A. No, sir. I've been on some short TDY trips</p> <p>2 for a week at a time, but never been deployed since</p> <p>3 2014.</p> <p>4 Q. What does TDY stand for?</p> <p>5 A. Temporary duty.</p> <p>6 Q. Okay.</p> <p>7 MR. BROOK: Let's go off the record</p> <p>8 for a second.</p> <p>9 (Whereupon, there was an off-the-record</p> <p>10 discussion.)</p> <p>11 (Plaintiff Brenda Thomas enters conference</p> <p>12 room.)</p> <p>13 MR. BROOK: Back on the record.</p> <p>14 BY MR. BROOK:</p> <p>15 Q. Okay. I'd like to direct your attention</p> <p>16 back to the time period around 2011 when you got</p> <p>17 stationed in Fort Stewart and through the next year.</p> <p>18 A. Yes.</p> <p>19 Q. What ways of communicating did you have</p> <p>20 with other agents in the CID?</p> <p>21 A. Within my office?</p> <p>22 Q. Yes. Within your office.</p> <p>23 A. Well, we had a relatively small office, so</p> <p>24 I had day-to-day interaction. When I reviewed their</p> <p>25 cases I would put an official review in the -- in the</p>	<p style="text-align: right;">17</p> <p>1 within the office about a case other than talking</p> <p>2 about it in person.</p> <p>3 Q. So by communications with somebody on the</p> <p>4 outside, do you mean outside the CID office?</p> <p>5 A. Yes.</p> <p>6 Q. So if you were to communicate with someone</p> <p>7 in the command structure, would that be by email,</p> <p>8 potentially?</p> <p>9 A. Potentially, yes, or a phone call.</p> <p>10 Q. And how were communications with the</p> <p>11 medical examiners typically handled? Were those</p> <p>12 through emails or phone calls?</p> <p>13 A. Both. I remember -- I don't remember who</p> <p>14 the ME was with AFME's office. It was a female. But</p> <p>15 I know we had both email and phone conversations.</p> <p>16 Q. What is your understanding of what this</p> <p>17 case that we're in a deposition here today for is</p> <p>18 about?</p> <p>19 A. Well, it's regarding the -- Private Aguigui</p> <p>20 and his patriots that killed Ms. York and Mr. Roark</p> <p>21 after the death of his wife.</p> <p>22 Q. When did you first learn about this</p> <p>23 lawsuit?</p> <p>24 A. I was reached out a couple months ago by a</p> <p>25 captain, I can't remember his name, that emailed</p>

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<p style="text-align: right;">18</p> <p>1 several people and said if we had any emails or 2 anything regarding the case at all, to keep it. I 3 really wasn't aware of anything else until about one 4 to two weeks ago when Ms. Johnson reached out to me. 5 Q. Prior to receiving that email about asking 6 whether you had any emails, had you heard anything 7 about a claim being made relating to the deaths of 8 Michael Roark or Tiffany York? 9 A. Not to my recollection. If there was, it 10 wouldn't have been anything that I thought involved 11 me, so I don't recall. 12 Q. Now, when you received the email asking if 13 you had any emails, did you look to see if you did? 14 A. I did. 15 Q. And did you find anything? 16 A. The only thing I found that I replied back 17 was, I think, some briefings that we had done 18 throughout the progress of the investigation. 19 Q. These were briefings that were sent via 20 email to -- 21 A. Yes. They would have been briefing to our 22 commanding general. 23 Q. Who was that? 24 A. At the time, I believe it was General 25 Johnson.</p>	<p style="text-align: right;">20</p> <p>1 Q. What about for a non-death case? 2 A. What we call them is the attached exhibits, 3 which would be the CAS -- sorry, not the CAS 4 entries -- the AIRs statements; the attached exhibits 5 that would be used as basically anything that would 6 be submitted in trial. Those were copied and sent to 7 crime records center to be maintained indefinitely. 8 The case file itself, after adjudication 9 was completed, if there was, would be maintained for 10 three years and then destroyed after adjudication. 11 Q. And does adjudication include if there's a 12 decision not to prefer charges? 13 I'm not sure -- forget my last question. 14 If there's ultimately a decision not to 15 prefer charges based on -- based on an open 16 investigation, and the investigation closes, how long 17 is that case file maintained for? 18 A. What would happen is we would send, we call 19 it a 4833, but it's a Commander's Report of 20 Disciplinary Action to a commander. And they would 21 fill it out, and if they chose not to take any 22 action, then we would put that in our case file and 23 then that would start the three years. But the main 24 copies would -- would still be maintained with the 25 crime records center.</p>
<p style="text-align: right;">19</p> <p>1 Q. And were those emails that were sent before 2 or after the murders of Michael Roark and Tiffany 3 York? 4 A. It would have been after because they would 5 be involving the deaths. 6 Q. Did you find any emails from before 7 December 2011? 8 A. No, sir. 9 Q. What is your usual practice as far as 10 keeping emails relating to cases that you've had? 11 A. If they're relevant, they would be copied 12 and put in the case file. 13 Q. Now, does that mean they would be copied 14 into the CAS or is there a separate case file you're 15 referring to? 16 A. Printed out. We'd print out a copy and put 17 it on the right-hand side of the case file. 18 Q. How long is a case file retained for after 19 a case is closed? 20 A. A death case would be -- the original would 21 be maintained indefinitely. At least it would be 22 retained until all adjudication is completed. But 23 the CAS entries, statements, things like that, would 24 be copied, sent to our crime records center, and they 25 would be maintained indefinitely.</p>	<p style="text-align: right;">21</p> <p>1 Q. Okay. But as far as emails, for example, 2 those would be only -- 3 A. Those would not be maintained permanently. 4 They would be maintained for the life of the file, 5 but they would be destroyed after the three years. 6 Q. Okay. When did you first hear the name 7 Isaac Aguigui or Private Aguigui? 8 A. I arrived at the office at Fort Stewart in 9 September 2011 and we had about a one to two-week 10 transition period between myself and the special 11 agent in charge that I was replacing. I believe I 12 took over officially as the agent in charge on the 13 1st of October in 2011. So within that transition 14 period, I would have been -- become familiar with his 15 name. And it was one of the first cases that I 16 reviewed when I came into the office. 17 Q. Did you meet Private Aguigui? 18 A. Never met him where I spoke with him. I 19 believe the first time I ever actually -- I did talk 20 to him on the phone when I had to give him casualty 21 liaison briefings regarding the death of his wife. I 22 don't recall when the first time I ever met him was. 23 The first one that comes to mind is when we 24 apprehended him, but I don't recall if I met him 25 before that.</p>

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<p style="text-align: right;">22</p> <p>1 Q. When you first heard about Private Aguigui</p> <p>2 were you aware at that time that he was a suspect in</p> <p>3 his wife's murder?</p> <p>4 A. We wouldn't classify him as a suspect. It</p> <p>5 would be a person of interest. And throughout the</p> <p>6 course of reviewing the case, he -- we believed -- we</p> <p>7 couldn't rule him out, so we had him as a person of</p> <p>8 interest that we would say, but there was no credible</p> <p>9 information at the time where we would list him as</p> <p>10 the subject/suspect.</p> <p>11 Q. How do you define "credible information"?</p> <p>12 A. Credible information is sort of a low</p> <p>13 threshold. It's information that would lead an</p> <p>14 investigator to believe that the facts presented are</p> <p>15 true. So it's a lower threshold than probable cause,</p> <p>16 which probable cause is a legal determination.</p> <p>17 Credible information is an administrative or</p> <p>18 operational decision.</p> <p>19 Q. So that is the standard for listing someone</p> <p>20 as a subject of an investigation or --</p> <p>21 A. Credible information would be, yes.</p> <p>22 Q. And that's also called titling someone?</p> <p>23 A. Yes.</p> <p>24 Q. And do you consider the word "suspect" and</p> <p>25 "subject" to be interchangeable?</p>	<p style="text-align: right;">24</p> <p>1 would list him as the subject.</p> <p>2 Q. Do you recall when that was?</p> <p>3 A. Exact day, no. I believe December of 2011.</p> <p>4 Q. Was it before or after the deaths of</p> <p>5 Michael Roark and Tiffany York?</p> <p>6 A. It was after.</p> <p>7 Q. Who in the CID office at Fort Stewart do</p> <p>8 you recall discussing the Aguigui case with prior to</p> <p>9 the deaths of Tiffany York and Michael Roark?</p> <p>10 A. I had an Agent Jeremy Foxx at the time, I</p> <p>11 believe was the primary case agent on it. His team</p> <p>12 chief was Ms. Ivery-Morris. I don't recall when Mr.</p> <p>13 Kapinus came into play, if that was before or after</p> <p>14 those deaths.</p> <p>15 Q. Is there anyone else?</p> <p>16 A. You mean specifically that would have</p> <p>17 worked on the case?</p> <p>18 Q. Yes.</p> <p>19 A. Because we would have all maybe had</p> <p>20 discussions within the office when we discussed our</p> <p>21 cases weekly. But I can't think off the top of my</p> <p>22 head who I would have specifically talked to other</p> <p>23 than the primary agent and the team chief.</p> <p>24 Q. Do you know of any investigators, not</p> <p>25 special agents, who worked on the case?</p>
<p style="text-align: right;">23</p> <p>1 A. Yes. While the -- while the case is going</p> <p>2 on, if they're in the subject block, they're subject</p> <p>3 or suspect.</p> <p>4 Q. Were there any other persons of interest in</p> <p>5 the Deirdre Aguigui death case?</p> <p>6 A. Her specific case? Not that come to mind.</p> <p>7 I don't recall, but I don't remember anybody else</p> <p>8 other than Private Aguigui.</p> <p>9 Q. Now, at some point, CID determined that</p> <p>10 there was credible information that he had murdered</p> <p>11 Deirdre Aguigui, right?</p> <p>12 A. Yes.</p> <p>13 Q. Do you recall what that new credible</p> <p>14 information was?</p> <p>15 A. It was several months later. I first</p> <p>16 reviewed the case in October. But everything that</p> <p>17 was showing in the case file was more or less</p> <p>18 circumstantial evidence -- autopsy reports,</p> <p>19 toxicology. There was nothing.</p> <p>20 And after a while, I had Mr. Kapinus as my</p> <p>21 primary case agent on it. He had good knowledge of</p> <p>22 conducting death investigations. But I believe it</p> <p>23 was more of just a totality of all the circumstantial</p> <p>24 evidence that we had at the time that we were able to</p> <p>25 gather where we finally made the decision that we</p>	<p style="text-align: right;">25</p> <p>1 A. Not that I recall.</p> <p>2 Q. Other than the Deirdre Aguigui homicide</p> <p>3 investigation, do you recall any of the other open</p> <p>4 matters that related to Private Aguigui prior to the</p> <p>5 deaths in question?</p> <p>6 A. I don't remember when it was, but after I</p> <p>7 had reviewed that case, it was sometime after. When</p> <p>8 I came into the office we had about 80 open</p> <p>9 investigations at the time with 20 or less agents, so</p> <p>10 it took a while to -- to know those cases, because</p> <p>11 those revolve on a daily basis.</p> <p>12 But later on, I was made aware of the --</p> <p>13 our drug team had a case where Aguigui had supposedly</p> <p>14 or alleged to have purchased a weapon to kill a drug</p> <p>15 dealer.</p> <p>16 Q. And what else do you recall about that</p> <p>17 investigation?</p> <p>18 A. That one, I'm trying to recall if it was</p> <p>19 even still open when I took over. If it was, it was</p> <p>20 closed shortly after, so I didn't have as much</p> <p>21 involvement with that case.</p> <p>22 Q. Is conspiracy to commit murder considered a</p> <p>23 serious offense by CID?</p> <p>24 A. Yes.</p> <p>25 Q. And as you sit here today, do you recall</p>

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<p style="text-align: right;">26</p> <p>1 what about that case you've thought was coming up</p> <p>2 short for purposes of it being something that led to</p> <p>3 charges?</p> <p>4 A. I don't recall why -- why it was -- I don't</p> <p>5 even remember if it was closed as unfounded or if it</p> <p>6 was insufficient evidence, what we used to have as an</p> <p>7 option, or if it was a founded. I don't remember how</p> <p>8 it was closed, so I can't tell you if there was a</p> <p>9 decision by the office or if it was a decision by the</p> <p>10 trial counsel not to take action.</p> <p>11 Q. Can you explain the differences between the</p> <p>12 three categories you just mentioned -- founded,</p> <p>13 unfounded, and insufficient evidence?</p> <p>14 A. So when you close a case as founded, that</p> <p>15 would mean we've made our coordination with the trial</p> <p>16 counsel on the case and it was opined probable cause</p> <p>17 to believe that the subject committed the offense</p> <p>18 listed, which would be founded.</p> <p>19 Unfounded would mean after a review of the</p> <p>20 totality of the investigation, the opined opinion is</p> <p>21 that the subject did not commit the crime.</p> <p>22 Insufficient evidence would mean can't make</p> <p>23 the determination between founded or unfounded; we</p> <p>24 just -- we were not able to -- to positively say</p> <p>25 "yes, founded" or "no, unfounded." It would just be</p>	<p style="text-align: right;">28</p> <p>1 himself?</p> <p>2 A. I believe on that case he did provide a</p> <p>3 statement where he said that he purchased a weapon</p> <p>4 with an intent to shoot a drug dealer.</p> <p>5 Q. Was that statement shared with members of</p> <p>6 his command?</p> <p>7 A. Whenever a case is closed, we would provide</p> <p>8 the commander with a copy of the entire investigation</p> <p>9 with all the attached exhibits that would include the</p> <p>10 sworn statement.</p> <p>11 Q. So prior to it being closed, though, that</p> <p>12 would not be given; is that right?</p> <p>13 A. We could. We're not precluded from sharing</p> <p>14 it with the commander beforehand. I can't tell you</p> <p>15 specifically when that statement was shared with him</p> <p>16 or the trial counsel, but they would eventually</p> <p>17 receive -- both receive a copy of that.</p> <p>18 Q. Is it important in the CID offices where</p> <p>19 you're in charge for the agents who are working for</p> <p>20 you to close cases in a timely fashion or to work</p> <p>21 towards doing so?</p> <p>22 A. Yes. Well, without rushing, but yes, in a</p> <p>23 timely fashion, yes, we have -- we have requirements</p> <p>24 to continue moving on a case until we complete it;</p> <p>25 however, if there is any outlying action that needs</p>
<p style="text-align: right;">27</p> <p>1 undetermined.</p> <p>2 Q. Is a sworn statement from a suspect a</p> <p>3 source of credible information?</p> <p>4 A. It can be, yes.</p> <p>5 Q. Okay. If that statement -- let's say a</p> <p>6 sworn statement is incriminating. Do you consider</p> <p>7 that to be credible information in supporting</p> <p>8 founding -- finding a charge founded?</p> <p>9 A. Like I said, possibly. That in and of</p> <p>10 itself may not necessarily give you a credible</p> <p>11 information by itself. You have to look at the</p> <p>12 totality of the allegation. So depending on what it</p> <p>13 is. It could be, yes. But is that the only factor?</p> <p>14 Not necessarily.</p> <p>15 Q. Right. Putting aside coerced confessions</p> <p>16 and such like that.</p> <p>17 A. Right.</p> <p>18 Q. Any allegations about that.</p> <p>19 Do you often find that people lie to</p> <p>20 incriminate themselves?</p> <p>21 A. Generally, no.</p> <p>22 Q. Have you ever seen that happen?</p> <p>23 A. Not that I can recall.</p> <p>24 Q. Do you recall whether Isaac Aguigui had</p> <p>25 signed any sworn statements that incriminated</p>	<p style="text-align: right;">29</p> <p>1 to be completed, then we would keep it open.</p> <p>2 Q. And what sort of incentives or controls do</p> <p>3 you put in place to ensure that cases that have</p> <p>4 things that are left open to get done actually have</p> <p>5 those things get done?</p> <p>6 A. So when we have a case, most -- most of the</p> <p>7 cases are assigned to an agent within the office, so</p> <p>8 at least once a month or every two weeks they should</p> <p>9 have a supervisory review. Team chief will generally</p> <p>10 review it and then the assistant agent in charge or</p> <p>11 the agent in charge will review the case on the other</p> <p>12 two weeks. So it should have two reviews a month</p> <p>13 where they're providing guidance to the agent.</p> <p>14 Q. What happens to an agent who does not do</p> <p>15 what a review tells that agent to do, if anything?</p> <p>16 A. Well, it should be followed up on by the</p> <p>17 supervisor, so we'd try to find out what was the</p> <p>18 reasoning was, if there's a valid reason. If we tell</p> <p>19 somebody to go out and interview an Individual A, it</p> <p>20 may be that they're not in an area or they're not</p> <p>21 available for a certain amount of time, or it could</p> <p>22 be that something else needs to be completed on the</p> <p>23 case before we can interview that individual. So we</p> <p>24 would need to discuss it to find out why there was</p> <p>25 a -- a delay.</p>

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<p style="text-align: right;">30</p> <p>1 Q. Okay. And when you find out the reason for</p> <p>2 the delay, is that something that ordinarily goes in</p> <p>3 the CAS?</p> <p>4 A. It's not required, but generally if I do a</p> <p>5 review and tell an agent to do certain activity, we</p> <p>6 may discuss it in person or they could respond in</p> <p>7 their review, their acknowledgment of the review, and</p> <p>8 describe why it couldn't be done.</p> <p>9 So both ways. It could be documented or it</p> <p>10 could have been just a verbal conversation between</p> <p>11 the supervisor and the agent.</p> <p>12 Q. Have you ever had an agent who did not</p> <p>13 complete tasks that were assigned and did not have a</p> <p>14 good reason for failing to do so?</p> <p>15 A. Yes.</p> <p>16 Q. When?</p> <p>17 A. But we -- usually in the military, any time</p> <p>18 you have a -- somebody of a higher rank that tells a</p> <p>19 subordinate something, that's -- that's considered a</p> <p>20 directive, but doesn't always necessarily need to</p> <p>21 mean that there should be some follow-on disciplinary</p> <p>22 action. Usually try to get them on line. I mean,</p> <p>23 that's the best case scenario, is to get the agent</p> <p>24 working on the case. So, yes, there's usually times</p> <p>25 when things aren't done.</p>	<p style="text-align: right;">32</p> <p>1 would try to not be as directly involved unless I</p> <p>2 really needed to. And at the office at Fort Stewart,</p> <p>3 I don't know of an instance where it got to that</p> <p>4 serious level where I had to be involved with agents</p> <p>5 not doing what they were supposed to be doing.</p> <p>6 Q. Was Agent Kapinus one of those agents who</p> <p>7 required more attention?</p> <p>8 A. No. I would say not.</p> <p>9 Q. Was Agent Foxx an agent like that, who</p> <p>10 needed more attention?</p> <p>11 A. Not that I recall. He was -- I wouldn't</p> <p>12 say he was a younger agent, but he was an enlisted</p> <p>13 agent, so may not have been to the degree of Mr.</p> <p>14 Kapinus. But he was definitely not an individual who</p> <p>15 directly disobeyed guidance or who needed attention</p> <p>16 or who needed to be disciplined.</p> <p>17 Q. Do you recall, particularly after having</p> <p>18 reviewed the CAS recently relating to the Aguigui</p> <p>19 investigations, whether there were tasks that were</p> <p>20 assigned to Agent Foxx that he did not complete in</p> <p>21 a -- within a month or two of the task being assigned</p> <p>22 to him?</p> <p>23 MS. JOHNSON: Objection. Assumes</p> <p>24 facts not in evidence.</p> <p>25 Let me just put on the record that he did</p>
<p style="text-align: right;">31</p> <p>1 However, when you look at the totality</p> <p>2 of -- of the case load that the agents would have,</p> <p>3 it's usually because there are other cases that</p> <p>4 they're working at the same time and not a</p> <p>5 disrespectful way of not completing the task.</p> <p>6 Does that make sense?</p> <p>7 Q. So you said that there were instances, or</p> <p>8 at least one instance, where you did have someone</p> <p>9 that didn't give you a good reason. What did you do</p> <p>10 in that instance or instances?</p> <p>11 A. We'd try to sit down with the soldier or</p> <p>12 agent and -- and get him back on track, whether that</p> <p>13 meant retraining or additional training or just some</p> <p>14 supervisory guidance in the form of a counseling. So</p> <p>15 if it has come down to counseling, sometimes that</p> <p>16 would be written or verbal. But generally we just</p> <p>17 try to keep the agent on track to get the job done.</p> <p>18 Q. Did that happen during your tenure at Fort</p> <p>19 Stewart?</p> <p>20 A. I'm trying to think off the top of my head,</p> <p>21 but it's hard to say. I mean, several agents coming</p> <p>22 in and out of the office, there were some agents that</p> <p>23 needed more attention than others and -- but I</p> <p>24 usually left that up to the team chiefs to take care</p> <p>25 of those -- their soldiers. So in that aspect, I</p>	<p style="text-align: right;">33</p> <p>1 not review that entire CAS.</p> <p>2 You can answer.</p> <p>3 THE WITNESS: The only thing that</p> <p>4 I -- that I do recall I saw, was there was one</p> <p>5 instance where I think I was on my first review</p> <p>6 where I provided guidance to conduct canvas</p> <p>7 interviews of Sergeant Aguigui's friends. I</p> <p>8 don't know when or if that was -- was followed</p> <p>9 up on. But that's the only one that I recall.</p> <p>10 However, there were other interviews that were</p> <p>11 done of people that she knew, but I don't</p> <p>12 remember that the canvas interview, that we</p> <p>13 would call it, of the friends was completed.</p> <p>14 That's the only one that I recall.</p> <p>15 BY MR. BROOK:</p> <p>16 Q. Do you recall whether you informed Agent</p> <p>17 Foxx or the team chief for the Deirdre Aguigui</p> <p>18 investigation that that was to be a priority</p> <p>19 investigation at some point?</p> <p>20 A. The canvas?</p> <p>21 Q. I'm sorry. The overall investigation</p> <p>22 relating to the Deirdre Aguigui --</p> <p>23 A. At one point I appointed Agent Foxx as --</p> <p>24 well, he was the primary on it. But at one point, I</p> <p>25 believe that was his only -- only case for a while.</p>

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<p style="text-align: right;">34</p> <p>1 I don't know if that was before or after the -- the</p> <p>2 other murders.</p> <p>3 Q. Do you recall Agent Foxx's background,</p> <p>4 whether he was particularly trained with criminal</p> <p>5 investigations prior to joining Fort Stewart?</p> <p>6 A. No. I know he was a -- a reserve agent,</p> <p>7 but I don't know what his prior background was, no.</p> <p>8 Q. Do you recall why you asked Agent Foxx to</p> <p>9 conduct canvas interviews of Private Aguigui's</p> <p>10 friends?</p> <p>11 A. At this time, no. That review was over</p> <p>12 five years ago. I don't remember why or what I would</p> <p>13 have been thinking at the time.</p> <p>14 Q. Are canvas interviews something that are</p> <p>15 generally ordered in connection with death</p> <p>16 investigations?</p> <p>17 A. For most cases we like to do a canvas</p> <p>18 interview if we believe there was somebody that may</p> <p>19 have seen or heard something. We would try to go to,</p> <p>20 if there was a scene, to the neighbors, to see if</p> <p>21 they seen or heard something. And we may try to go</p> <p>22 to friends, family members, and talk to them to see</p> <p>23 anything in general, if we can come out with the</p> <p>24 mindset of the individual or just anything that might</p> <p>25 help --</p>	<p style="text-align: right;">36</p> <p>1 Generally that would probably be their -- their</p> <p>2 closest friends or the people that they hang out with</p> <p>3 most. But we may take it up higher. We would talk</p> <p>4 to supervisors as well, chain of command. But we</p> <p>5 would start at a platoon level, and then if need be,</p> <p>6 we would take it to an entire company level. But</p> <p>7 you'll find a lot of platoons don't interact as much,</p> <p>8 so you'll get most of your information from the</p> <p>9 platoon level.</p> <p>10 THE COURT REPORTER: "From the platoon</p> <p>11 level"?</p> <p>12 THE WITNESS: Platoon level, yes.</p> <p>13 THE COURT REPORTER: Thank you.</p> <p>14 BY MR. BROOK:</p> <p>15 Q. Do you recall whether at any point in time</p> <p>16 either before or after the deaths of Michael Roark</p> <p>17 and Tiffany York there was a canvas done of Isaac</p> <p>18 Aguigui's unit members?</p> <p>19 A. I do not recall.</p> <p>20 Q. Can you think of any reason why that would</p> <p>21 not be done?</p> <p>22 A. I know the main body of the unit was</p> <p>23 deployed at the time, so Private Aguigui was part of</p> <p>24 a rear detachment, which was a much smaller element.</p> <p>25 And after the murders, I know there was four</p>
<p style="text-align: right;">35</p> <p>1 Q. When a soldier is a suspect or person of</p> <p>2 interest --</p> <p>3 A. Yes.</p> <p>4 Q. -- how common is it to conduct a canvas</p> <p>5 interview of other members of that soldier's unit?</p> <p>6 A. I would say it's common.</p> <p>7 Q. And why is that done?</p> <p>8 A. Like I said, just do a -- find out what</p> <p>9 their demeanor was, if we suspect them of a crime. I</p> <p>10 guess to find out what their demeanor was, if they</p> <p>11 had been -- maybe if they had said something or done</p> <p>12 something that may help us tie the elements of the</p> <p>13 crime together where we could move that person from a</p> <p>14 suspect to a -- to a subject. Just try to put the</p> <p>15 pieces together is the main reason.</p> <p>16 Q. The term "unit" has a lot of different</p> <p>17 meanings in the Army, wouldn't you agree?</p> <p>18 A. Yes.</p> <p>19 Q. When you talk about doing canvas interviews</p> <p>20 of a unit or other people in your CAS offices, do you</p> <p>21 have a sense of what that means in that context, how</p> <p>22 big a group of people you're talking about?</p> <p>23 A. If it was a soldier, if I say -- well, if I</p> <p>24 say "unit," yes, it is a very large meaning. But we</p> <p>25 would start with probably at the platoon level.</p>	<p style="text-align: right;">37</p> <p>1 individuals involved, so we didn't know -- we</p> <p>2 wouldn't have known what the extent was of who else</p> <p>3 would have been involved with that, so we would have</p> <p>4 had to have been very careful afterwards about</p> <p>5 canvassing for the possibility of talking to someone</p> <p>6 who may have been involved with it.</p> <p>7 Prior to those deaths, no.</p> <p>8 Q. So help me understand. Why would you need</p> <p>9 to be careful about canvassing if there were other</p> <p>10 people potentially involved?</p> <p>11 A. I'm trying to recall back, but if -- if we</p> <p>12 have up to four people involved in one unit with</p> <p>13 deaths, we didn't know what the extent was of anybody</p> <p>14 else's involvement. So just asking basic canvas</p> <p>15 questions may not be harmful, but we didn't want</p> <p>16 to -- wouldn't have wanted to tip anybody off if we</p> <p>17 knew anything else.</p> <p>18 Q. So how did you go about trying to determine</p> <p>19 whether anyone else was involved with the Isaac</p> <p>20 Aguigui and other folks who he was committing crimes</p> <p>21 with?</p> <p>22 A. Before?</p> <p>23 Q. Talking about now, after the -- the murders</p> <p>24 occurred.</p> <p>25 A. After? I have to say I don't recall.</p>

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<p style="text-align: right;">38</p> <p>1 Because at that time it was several agencies 2 involved -- the GBI, ATF, local sheriff's department 3 was involved, the FBI. So at that point it was 4 afterwards the GBI was doing a lot of the -- they did 5 the main interviews on the -- on the subject 6 interviews. So a lot of it was coordinations between 7 our agencies, and I just don't recall the subsequent 8 interviews with the friends and who made those -- who 9 made those determinations. 10 Q. Do you recall whether it turned out that 11 there were more people involved than just the four 12 who were arrested on December 10th? 13 A. And the one spouse. I don't recall anybody 14 else that had involvement. 15 Q. And you're talking about just involvement 16 in the murder itself, correct? 17 A. Correct. 18 Q. Did you learn about involvement in other 19 crimes in connection with Isaac Aguigui and a group 20 that he had formed that occurred prior to? 21 A. That they had already committed? 22 Q. Yes. 23 A. The only thing that comes to mind is the 24 straw purchases, which the ATF looked at, where he 25 was paying some of his friends money to buy weapons</p>	<p style="text-align: right;">40</p> <p>1 Q. Do you recall what her articulated concern 2 was? 3 A. Specifically, no. I know she had concerns 4 that he bought a large number of weapons. I don't 5 recall if she had concerns what he was going to do 6 with them. 7 His answer was he was going to start up a 8 security business. 9 Specifically what she told them, I do not 10 know. I never read any statement that she had given 11 them. 12 But I do know the FBI went out and talked 13 to him, and those weapons never -- to my knowledge, 14 never left the establishment where he purchased them, 15 and they concluded that those were all legally 16 purchased. 17 Q. So how did your CID office get involved 18 with that? 19 A. When we were notified, we contacted our 20 counterparts at the CID office on Fort Lewis, 21 Washington. And I don't remember what their -- what 22 the extent of their involvement was because the 23 FBI -- I believe it was part of the joint terrorism 24 task force -- but somebody from the FBI had looked 25 into it there in the Washington State area and</p>
<p style="text-align: right;">39</p> <p>1 locally. 2 Q. Do you recall how many guns, give or take, 3 that was? 4 A. I do not. 5 Q. Who was the lead investigator on that? 6 Which agency? 7 A. ATF would have taken that. 8 Q. And when did you learn about that 9 investigation? 10 A. Would have been shortly after the deaths. 11 Q. Did that investigation begin before the 12 deaths or only after the deaths? 13 A. The illegal straw purchases? 14 Q. Yes. 15 A. I'm not aware of them until after the 16 deaths. 17 Q. Prior to the deaths did you learn of any 18 other agencies outside the Army investigating Isaac 19 Aguigui? 20 A. The only one was at one point he went on 21 leave to Washington State and purchased a number of 22 weapons up there. And I believe it was one of his 23 aunts was concerned. And I don't know if she called 24 the locals or if she called the FBI, but she called 25 someone with concerns that he had purchased weapons.</p>	<p style="text-align: right;">41</p> <p>1 determined that they were legal purchases. 2 Q. Do you know whether the FBI was informed 3 about the open investigations that your office had on 4 Isaac Aguigui? 5 A. I don't recall at this time. 6 Q. Is that the type of information that would 7 potentially be shared or is it something that you 8 were not able to share with another agency? 9 A. We would be able to share it, but it came 10 back to legal purchases. It wouldn't have assisted 11 or changed their determination that I could see. 12 MR. BROOK: Let's go off the record 13 a second. 14 (Whereupon, there was an off-the-record 15 discussion.) 16 MR. BROOK: Back on the record. 17 BY MR. BROOK: 18 Q. Okay. Did you ever speak with any of the 19 Fort Lewis counterparts regarding the gun purchases? 20 A. I did. I believe -- I don't remember if it 21 was agent in charge or one of the supervisors at the 22 time, but I know when we were first made aware of it, 23 we immediately drove to Aguigui's unit and talked to 24 his sergeant major, who told us he was on leave at 25 the time. We obtained a copy of his leave form and</p>

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<p style="text-align: right;">42</p> <p>1 then we contacted the local CID office. I believe</p> <p>2 they were the liaison with the FBI there.</p> <p>3 Q. Was that because there was concern he'd</p> <p>4 been AWOL potentially?</p> <p>5 A. No, he was on leave. But we just wanted to</p> <p>6 find his location because his leave form would have</p> <p>7 his location on there.</p> <p>8 Q. Who else in your CID office was involved in</p> <p>9 looking into Aguigui and the gun purchases at that</p> <p>10 time?</p> <p>11 A. I don't recall which agent it was.</p> <p>12 Q. Do you recall who drove with you to talk to</p> <p>13 Aguigui's sergeant major?</p> <p>14 A. I do not.</p> <p>15 Q. Outside of CID do you recall who the trial</p> <p>16 counsel was regarding the Aguigui matters?</p> <p>17 MS. JOHNSON: You mean for the State</p> <p>18 or...</p> <p>19 THE WITNESS: You mean on Fort</p> <p>20 Stewart?</p> <p>21 BY MR. BROOK:</p> <p>22 Q. I mean on Fort Stewart, yes. The SJA.</p> <p>23 A. I believe the SJA was Major Greizer,</p> <p>24 G-R-E-I-Z-E-R.</p> <p>25 Q. And does the name Captain Borchardt ring a</p>	<p style="text-align: right;">44</p> <p>1 specific conversation I don't recall.</p> <p>2 Q. And who is Colonel Bagwell?</p> <p>3 A. Colonel Bagwell was the third division</p> <p>4 staff judge advocate.</p> <p>5 Q. Was he involved in the Aguigui case at any</p> <p>6 time?</p> <p>7 A. I remember talking to him at least once or</p> <p>8 twice. I don't remember when he became involved.</p> <p>9 I'm pretty sure it was after the two deaths.</p> <p>10 Q. Is that common for someone at his level of</p> <p>11 seniority to get involved in a case?</p> <p>12 A. A normal case, no, but a very high-profile</p> <p>13 or potentially high-profile case, it's not uncommon</p> <p>14 for the senior level JAG to be involved, because they</p> <p>15 would be the direct legal adviser to the commanding</p> <p>16 general for the installation.</p> <p>17 Q. So the commanding general would be speaking</p> <p>18 directly to Colonel Bagwell in this instance?</p> <p>19 A. They would, yes.</p> <p>20 Q. Now, do you recall anyone in Aguigui's</p> <p>21 command structure that you spoke with about any of</p> <p>22 his cases prior to the deaths?</p> <p>23 A. I remember the rear detachment battalion</p> <p>24 commander. I don't recall his name. But I do know</p> <p>25 we spoke with him. And when we did make the</p>
<p style="text-align: right;">43</p> <p>1 bell?</p> <p>2 A. I saw the name yesterday. It rings a bell</p> <p>3 but I don't remember if he was the trial counsel for</p> <p>4 the unit. Major Greizer would have been the senior</p> <p>5 trial counsel over the -- over the captains. And I</p> <p>6 do recall discussing it with him before, but I don't</p> <p>7 remember as much about Captain Borchardt.</p> <p>8 Q. And when did you discuss Aguigui with Major</p> <p>9 Greizer?</p> <p>10 A. Well, it would have been a continual basis</p> <p>11 because we usually had -- at least every two weeks we</p> <p>12 would have meetings where we would discuss most of</p> <p>13 our open cases. So I don't remember any one specific</p> <p>14 incident where we spoke with him about the case, but</p> <p>15 it would have been several instances where we would</p> <p>16 have discussed it.</p> <p>17 Q. And this was prior to the deaths of Michael</p> <p>18 Roark and Tiffany York?</p> <p>19 A. Both. Before and after.</p> <p>20 Q. Were those discussions in person or over</p> <p>21 the phone?</p> <p>22 A. Sometimes when we had meetings, the</p> <p>23 bi-weekly meetings, we would do those in person, but</p> <p>24 it wouldn't be unusual at all to have a telephone</p> <p>25 conversation about the case. But, again, any one</p>	<p style="text-align: right;">45</p> <p>1 apprehensions after the deaths, he was directly</p> <p>2 involved, because the way we did the apprehensions we</p> <p>3 did it at the unit level so the senior leadership was</p> <p>4 there and we discussed that.</p> <p>5 Q. Does the name Zonie Daniels ring a bell?</p> <p>6 A. Zonie Daniels?</p> <p>7 Q. Captain Zonie Daniels?</p> <p>8 A. I don't recall, no, sir.</p> <p>9 Q. How about Lieutenant Colonel Hadley?</p> <p>10 A. It sounds familiar. He may have been the</p> <p>11 battalion commander that we talked to. That name</p> <p>12 does sound familiar.</p> <p>13 Q. And as of right now you can't think of</p> <p>14 anyone else?</p> <p>15 A. At the unit?</p> <p>16 Q. At the command level.</p> <p>17 A. His command? Other than the sergeant</p> <p>18 major, and I don't remember his name. I only recall</p> <p>19 that one conversation with him when he was on leave.</p> <p>20 Q. Did you ever speak with anyone from the</p> <p>21 casualty assistance office regarding the Deirdre</p> <p>22 Aguigui investigation?</p> <p>23 A. Yes.</p> <p>24 Q. And when did that first happen?</p> <p>25 A. I don't recall when. At some point we had</p>

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<p style="text-align: right;">46</p> <p>1 a telephone conversation, because I don't believe --</p> <p>2 I don't believe she was local. I think she was out</p> <p>3 of the state, so we had a conversation about the</p> <p>4 monetary payments that were made.</p> <p>5 Q. Is that before or after the deaths?</p> <p>6 A. This was before. After the death of</p> <p>7 Deirdre obviously.</p> <p>8 Q. Right. I'm assuming, since you didn't get</p> <p>9 involved before Deirdre Aguigui was killed --</p> <p>10 A. Right.</p> <p>11 Q. -- that when we talk about the deaths,</p> <p>12 we're talking about --</p> <p>13 A. Yes, yes.</p> <p>14 (Simultaneous speaking.)</p> <p>15 THE COURT REPORTER: I'm sorry. Y'all</p> <p>16 talked over each other.</p> <p>17 "I'm assuming, since you didn't get</p> <p>18 involved before Deirdre Aguigui was killed" and</p> <p>19 then y'all talked over each other.</p> <p>20 MR. BROOK: December 5th was the</p> <p>21 date.</p> <p>22 THE WITNESS: I don't remember what</p> <p>23 he said.</p> <p>24 THE COURT REPORTER: I can only take one</p> <p>25 person at a time.</p>	<p style="text-align: right;">48</p> <p>1 we did inform them that he was a person of interest</p> <p>2 in the case.</p> <p>3 Q. Did you look into the possibility of</p> <p>4 pulling the money back or freezing the money?</p> <p>5 A. I recall that we asked, but I want to say</p> <p>6 it was already paid and by the time -- I wish I knew</p> <p>7 exact dates because as soon as he received that money</p> <p>8 it was -- it was -- it was being spent. But I don't</p> <p>9 recall the time frame.</p> <p>10 Q. Did you pull or have someone pull Aguigui's</p> <p>11 financials to see what he was doing with the money?</p> <p>12 A. One of the agencies had pulled it, and it</p> <p>13 took us a while before we were able to freeze the</p> <p>14 accounts. I don't believe that was actually</p> <p>15 completed until probably after the first of the year.</p> <p>16 And by that time, there was only about</p> <p>17 a-hundred-and-some-thousand left in the account. But</p> <p>18 I don't remember dates and even months.</p> <p>19 Q. Do you recall whether you looked into</p> <p>20 freezing the accounts before or after the deaths?</p> <p>21 A. I don't recall.</p> <p>22 Q. And what was the basis on which the</p> <p>23 accounts were frozen?</p> <p>24 A. When they were frozen?</p> <p>25 Q. Yes.</p>
<p style="text-align: right;">47</p> <p>1 BY MR. BROOK:</p> <p>2 Q. I don't know exactly where we left off, but</p> <p>3 the point is "the deaths," I'm referring to the</p> <p>4 deaths of Michael Roark and Tiffany York on December</p> <p>5 5th, 2011?</p> <p>6 A. Yes.</p> <p>7 Q. We've understood this whole time, correct?</p> <p>8 A. Yes, sir.</p> <p>9 So I don't recall when I talked to the</p> <p>10 casualty assistance on casualty affairs, the</p> <p>11 individuals that were responsible for paying the</p> <p>12 death gratuity and SGLI, but I do recall at least one</p> <p>13 phone conversation with them. I believe -- I don't</p> <p>14 remember if I called them, but I believe they reached</p> <p>15 out to me regarding the payments. And that's when I</p> <p>16 was made aware that they had already talked to</p> <p>17 Mr. Toole before that and the death gratuity had been</p> <p>18 paid, and informed them that he was still a person of</p> <p>19 interest in Sergeant Aguigui's death, and I believe</p> <p>20 they said that the SGLI had already been paid or was</p> <p>21 going to be paid.</p> <p>22 But at that point, I believe it was too</p> <p>23 late to pull the money back. I don't remember what</p> <p>24 month that was, so I don't remember when they paid it</p> <p>25 and when that had to do with the conversation. But</p>	<p style="text-align: right;">49</p> <p>1 A. I'm trying to remember which agency even</p> <p>2 had it done, because that wasn't -- wasn't us, it was</p> <p>3 one of the other agencies that we worked with that</p> <p>4 was able to get that accomplished. And I don't</p> <p>5 remember which agency it was, but they were the ones</p> <p>6 that completed that.</p> <p>7 Q. So one of the other agencies, maybe federal</p> <p>8 or state?</p> <p>9 A. Yes.</p> <p>10 Q. You're not sure?</p> <p>11 A. I don't recall. But one -- it was a joint</p> <p>12 case with several agencies and one of them was able</p> <p>13 to get the accounts frozen.</p> <p>14 Q. Do you recall the name Sergeant Scott Zipp?</p> <p>15 A. Yes.</p> <p>16 Q. Who was he?</p> <p>17 A. Sergeant Zipp was one of Aguigui's</p> <p>18 supervisors. I don't know if he was a squad leader.</p> <p>19 He was one of his supervisors who --</p> <p>20 Private Aguigui had came to us one day, and he had --</p> <p>21 I believe he recorded it on his phone after Aguigui</p> <p>22 had received the money. Sergeant Zipp was trying to</p> <p>23 get him to make him payments so he could get out of</p> <p>24 work. So he brought us a video showing him, I</p> <p>25 believe in a vehicle, asking for money.</p>

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<p style="text-align: right;">50</p> <p>1 Q. And what did you do when you got that</p> <p>2 video?</p> <p>3 A. I don't recall if we worked that under a</p> <p>4 separate investigation or if we worked it under the</p> <p>5 death case.</p> <p>6 Q. But did you work it as a case?</p> <p>7 A. I don't recall. I want to say we would</p> <p>8 have, but I -- I don't recall specifically.</p> <p>9 Q. If you did not investigate it, is there</p> <p>10 someone else who would have investigated it besides</p> <p>11 CID?</p> <p>12 A. Possibly MPI. I honestly don't recall</p> <p>13 where that -- where that -- that incident led.</p> <p>14 Q. And so as you sit here today, you can't</p> <p>15 recall any of your agents who were working that case?</p> <p>16 A. I don't recall, no.</p> <p>17 Q. Okay. Is that something that you had ever</p> <p>18 seen before, where a soldier had, I guess, accused</p> <p>19 his supervising officer of, I guess --</p> <p>20 A. Extorting money from him?</p> <p>21 Q. Yes.</p> <p>22 A. That was the first extortion case like that</p> <p>23 that I've ever seen.</p> <p>24 Q. Do you think it had anything to do with the</p> <p>25 fact that soldiers don't typically have a ton of</p>	<p style="text-align: right;">52</p> <p>1 Is it fair to say that Isaac Aguigui had a</p> <p>2 lot of different interactions with CID in different</p> <p>3 cases?</p> <p>4 A. I'm aware of three -- well, the three where</p> <p>5 he was a primary in. But in the years I've been with</p> <p>6 CID, I've seen cases where -- where individuals would</p> <p>7 come multiple times, either subjects or victims or</p> <p>8 involved in a case. Definitely more than once;</p> <p>9 sometimes multiple times. So it's not common, but</p> <p>10 it's not highly unusual for -- for someone to get in</p> <p>11 trouble and then get in trouble a second or third</p> <p>12 time. It's not -- it's not highly unusual, no.</p> <p>13 Q. In some of the other instances where you</p> <p>14 recall a soldier coming in multiple times for</p> <p>15 different reasons, what happened to those soldiers?</p> <p>16 A. Well, disciplinary action, we would always</p> <p>17 investigate, we would always -- we're obligated to</p> <p>18 initiate investigation whether it's a soldier who</p> <p>19 comes in multiple times for drug allegations or</p> <p>20 sexual assault allegations on multiple victims.</p> <p>21 Our job is to investigate the case and to</p> <p>22 make the determination if they met the elements under</p> <p>23 the Uniform Code of Military Justice. We conduct the</p> <p>24 investigation itself. But any administrative action</p> <p>25 is the sole responsibility of the unit in</p>
<p style="text-align: right;">51</p> <p>1 money to give?</p> <p>2 A. I would say so, yes.</p> <p>3 Q. Do you recall approximately how long before</p> <p>4 the deaths occurred that you had Aguigui coming in</p> <p>5 and trying to get you guys to go after Zipp?</p> <p>6 MS. JOHNSON: Objection.</p> <p>7 Mischaracterizes his testimony; assumes facts</p> <p>8 not in evidence.</p> <p>9 THE WITNESS: I do not recall.</p> <p>10 BY MR. BROOK:</p> <p>11 Q. Did -- did Aguigui come to you about the</p> <p>12 Scott Zipp incident?</p> <p>13 A. If I recall, yes, he brought his -- his</p> <p>14 phone in with -- with the video. If I remember</p> <p>15 correctly, that's -- he would have informed us.</p> <p>16 Q. What did he want you to do?</p> <p>17 A. Well, if he brought it in, then he would</p> <p>18 have wanted us to investigate it. But I just don't</p> <p>19 recall how that investigation was handled.</p> <p>20 Q. Can you recall another soldier who you've</p> <p>21 seen pop up so often in CID matters?</p> <p>22 MS. JOHNSON: Objection. Assumes</p> <p>23 facts not in evidence.</p> <p>24 BY MR. BROOK:</p> <p>25 Q. Let me rephrase.</p>	<p style="text-align: right;">53</p> <p>1 coordination with their trial counsel, and we don't</p> <p>2 have any say in -- in the action that's going to be</p> <p>3 taken.</p> <p>4 Q. Turning back to Private Aguigui, do you</p> <p>5 recall what action his unit wanted to take with</p> <p>6 respect to him prior to the deaths?</p> <p>7 A. No. There was -- there would have been</p> <p>8 discussion between us and -- and the trial counsel</p> <p>9 and the -- and his command. But I do know that there</p> <p>10 was no chapter because if we were going to have a</p> <p>11 positive resolution on the Sergeant Aguigui's death</p> <p>12 and he was already out of the Army, it would have</p> <p>13 been much more difficult for them to call him back,</p> <p>14 so we wanted to thoroughly investigate the death case</p> <p>15 before he was out. But, again, the -- the decision</p> <p>16 on that would be between the command and the trial</p> <p>17 counsel.</p> <p>18 Q. And do you recall who was making those</p> <p>19 decisions in the case of Isaac Aguigui?</p> <p>20 A. His battalion commander would have been the</p> <p>21 individual who made the ultimate decision.</p> <p>22 Q. Now, if a battalion commander or another</p> <p>23 person who is making a decision about a particular</p> <p>24 soldier that's being investigated tells CID they want</p> <p>25 an investigation to be given priority or wrapped up</p>

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<p style="text-align: right;">54</p> <p>1 quickly, is that something that CID listens to or is</p> <p>2 it something that CID has discretion to ignore?</p> <p>3 A. We have our own discretion on how fast</p> <p>4 we're going to work a case, work an investigation --</p> <p>5 that's why we call ourselves a stovepipe</p> <p>6 organization -- so we don't have to answer to</p> <p>7 authority over senior commanders who are directly</p> <p>8 involved with the case or may have an interest in it.</p> <p>9 But it's very uncommon for a commander to</p> <p>10 try to influence us to -- to close a case quickly.</p> <p>11 They usually know when we -- when we brief them, they</p> <p>12 know that we have other aspects that we're waiting</p> <p>13 on.</p> <p>14 Like in this case, it took us a long time</p> <p>15 to get the autopsy and toxicology results and</p> <p>16 coordinations with AFME's office and things like</p> <p>17 that. So there's other aspects beyond our control --</p> <p>18 laboratory analysis. There's simply we -- we have no</p> <p>19 control over it.</p> <p>20 Q. In your experience how long does it</p> <p>21 typically take to get a laboratory analysis completed</p> <p>22 and results back?</p> <p>23 A. That's a very difficult question to answer.</p> <p>24 It depends on what type of -- I don't remember what</p> <p>25 the going time frame was back in 2011. But if we had</p>	<p style="text-align: right;">56</p> <p>1 After he put that entry in, we did have a</p> <p>2 conversation and explained to him difficulties with</p> <p>3 this one because of the lack of any physical evidence</p> <p>4 on Sergeant Aguigui's body and the lack of anything</p> <p>5 in toxicology, the autopsy report was inconclusive.</p> <p>6 So after we had a conversation, he -- he did agree</p> <p>7 that it would have been too soon prior to that to</p> <p>8 list him as a subject.</p> <p>9 Q. When did that conversation take place?</p> <p>10 A. It would have been within a day or two of</p> <p>11 him putting that entry in there.</p> <p>12 Q. Was it by phone?</p> <p>13 A. Yes. He was on Fort Benning and I was on</p> <p>14 Fort Stewart.</p> <p>15 Q. Was anyone else on the phone call?</p> <p>16 A. No. It was just me and him.</p> <p>17 Q. About how long did it last?</p> <p>18 A. I don't recall. I do remember -- I do</p> <p>19 remember us having the conversation, and I explained</p> <p>20 to him the difficulties and -- and why it took that</p> <p>21 long to reach the credible information standard, but</p> <p>22 I don't remember the time length in the phone call.</p> <p>23 Q. Do you recall whether you personally</p> <p>24 reviewed the autopsy photos of Deirdre Aguigui's body</p> <p>25 at that point?</p>
<p style="text-align: right;">55</p> <p>1 sent it to our lab, DNA analysis can sometimes take</p> <p>2 months. AFME's office, if they're waiting on</p> <p>3 toxicology, that's their timeline. But it can be</p> <p>4 into the months.</p> <p>5 Q. Who is Larry Turso?</p> <p>6 A. Larry Turso, at the time, for a brief</p> <p>7 period was the battalion's operations officer that</p> <p>8 our officer fell under.</p> <p>9 Q. So was that essentially the position that</p> <p>10 you currently hold?</p> <p>11 A. He was at a battalion level. I'm at a</p> <p>12 group level. So the battalion would have had about</p> <p>13 five subordinate officers underneath him that he</p> <p>14 would have managed. He would have been the</p> <p>15 operations officer over those five offices. So at</p> <p>16 that time the Fort Stewart office fell under the</p> <p>17 Benning battalion, which Larry Turso was the</p> <p>18 operations officer for that battalion.</p> <p>19 Q. Do you recall whether he had any</p> <p>20 involvement in the Aguigui cases?</p> <p>21 A. I do recall his one -- one CAS entry that</p> <p>22 we reviewed. He put an entry in there. And I forget</p> <p>23 what his exact wording was, but at the time when he</p> <p>24 put his review in, he felt that we had met the</p> <p>25 credible information standard prior to that.</p>	<p style="text-align: right;">57</p> <p>1 A. I remember some photos, but I don't</p> <p>2 remember if they were the autopsy or the death scene</p> <p>3 photos. I don't remember.</p> <p>4 Q. Okay. So the death scene photos you would</p> <p>5 have seen?</p> <p>6 A. I would have seen those, yes.</p> <p>7 Q. Do you recall what the condition of Deirdre</p> <p>8 Aguigui's body was in terms of whether there were any</p> <p>9 bruises or abrasions?</p> <p>10 A. I do recall seeing some slight bruises on</p> <p>11 her wrists. I believe there was a slight abrasion</p> <p>12 under her lip. I don't recall any other that stand</p> <p>13 out for abrasions or -- or bruises to her body.</p> <p>14 Q. So a moment ago you said there was lack of</p> <p>15 any physical evidence. There was some physical</p> <p>16 evidence, though, if there were bruises on her</p> <p>17 wrists, correct?</p> <p>18 A. Yes. There was bruises. There was mild</p> <p>19 bruising on her wrists and the lip. But to reach the</p> <p>20 credible information standard -- I guess what I meant</p> <p>21 was, to reach credible information standard, we</p> <p>22 didn't have that for -- for a death.</p> <p>23 MR. BROOK: Now would be a good</p> <p>24 time to take a break, I guess. We've been</p> <p>25 going for an hour and 45 minutes.</p>

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16 (Pages 58 to 61)

<p style="text-align: right;">58</p> <p>1 MS. JOHNSON: How much longer do you</p> <p>2 have?</p> <p>3 MR. BROOK: Probably about 45</p> <p>4 minutes.</p> <p>5 (Recess, 10:47 a.m.)</p> <p>6 (Reconvened, 11:01 a.m.)</p> <p>7 MR. BROOK: Back on the record.</p> <p>8 BY MR. BROOK:</p> <p>9 Q. I want to show you what's been previously</p> <p>10 marked as Exhibit 13. This is the CAS for the</p> <p>11 Deirdre Aguigui homicide (tenders document).</p> <p>12 Do you recognize this?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. If you could please flip to Page 56</p> <p>15 of 187.</p> <p>16 A. (Witness complies with the request of</p> <p>17 counsel).</p> <p>18 Q. And there in the middle of the page it</p> <p>19 appears to be an entry by you dated October 9th,</p> <p>20 2011; is that right?</p> <p>21 A. Yes.</p> <p>22 Q. Do you remember making this entry?</p> <p>23 A. Yes.</p> <p>24 Q. And why did you put this entry in?</p> <p>25 A. It was a standard review. When I took over</p>	<p style="text-align: right;">60</p> <p>1 interviews that were conducted by individuals that</p> <p>2 had said he had joked about that. I don't know if</p> <p>3 the quote was coming into money soon, but I believe</p> <p>4 there was at least one person that said they joked,</p> <p>5 maybe I'll just kill my wife and get the insurance</p> <p>6 money, something to that effect. But I don't</p> <p>7 remember him ever saying it was going to happen and</p> <p>8 it was going to be soon.</p> <p>9 Q. And at the time do you know whether</p> <p>10 Aguigui's text messages had been retrieved from his</p> <p>11 phone?</p> <p>12 MS. JOHNSON: I'm sorry. What was</p> <p>13 that?</p> <p>14 BY MR. BROOK:</p> <p>15 Q. At the time do you know whether Aguigui's</p> <p>16 text messages had been retrieved from his cell phone?</p> <p>17 A. I do not recall.</p> <p>18 Q. As you sit here today, do you recall</p> <p>19 whether any of the text messages on Aguigui's cell</p> <p>20 phone were incriminating?</p> <p>21 MS. JOHNSON: Objection as to form.</p> <p>22 THE WITNESS: I don't recall.</p> <p>23 BY MR. BROOK:</p> <p>24 Q. Item No. 3, you said that you wanted her</p> <p>25 close friends interviewed, quote, "Don't hold off any</p>
<p style="text-align: right;">59</p> <p>1 the office, I tried to review all the cases. And</p> <p>2 then a supervisory review should be documented with</p> <p>3 the guidance for the agents for what they need to</p> <p>4 continue with. So this would be a standard</p> <p>5 supervisory review that I put in the case.</p> <p>6 Q. Okay. And you stated, quote, "I have some</p> <p>7 concerns over her death."</p> <p>8 A. Yes.</p> <p>9 Q. Is it correct that -- did you list all of</p> <p>10 your concerns in this statement or did you have other</p> <p>11 concerns as well?</p> <p>12 A. To the best of my recollection, I would</p> <p>13 have put anything that I thought needed to be</p> <p>14 addressed in there, yes.</p> <p>15 Q. Were you aware at that time that Aguigui</p> <p>16 had made statements to witnesses prior to Deirdre</p> <p>17 Aguigui's death indicating that he was going to come</p> <p>18 into some money soon?</p> <p>19 MS. JOHNSON: Objection. Assumes</p> <p>20 facts not in evidence.</p> <p>21 THE WITNESS: I don't recall.</p> <p>22 BY MR. BROOK:</p> <p>23 Q. As you sit here today, do you recall</p> <p>24 whether such statements had been made by Aguigui?</p> <p>25 A. I don't remember how many. There was</p>	<p style="text-align: right;">61</p> <p>1 further on the canvas interviews; get them</p> <p>2 completed," end quote.</p> <p>3 Is this the same canvas interviews you</p> <p>4 referred to earlier in your testimony today?</p> <p>5 A. Yes, it would be.</p> <p>6 Q. Okay. And, to your knowledge, these canvas</p> <p>7 interviews were not completed prior to the deaths of</p> <p>8 Michael Roark and Tiffany York; is that right?</p> <p>9 A. I don't recall when they were, if they were</p> <p>10 completed.</p> <p>11 Q. Looking at Item No. 9, you said that you</p> <p>12 wanted to -- I'll just quote it -- quote, "I want you</p> <p>13 to prepare a timeline surrounding her death,</p> <p>14 specifically the day of and the day prior to her</p> <p>15 death. Make sure everything known in" -- and I</p> <p>16 assume that means "is annotated" -- "i.e., his</p> <p>17 locations, her locations, time of phone calls and</p> <p>18 texts, et cetera."</p> <p>19 A. Yes.</p> <p>20 Q. Why was this important to you?</p> <p>21 A. I believe -- I don't remember what day --</p> <p>22 there was a day when he went to South Carolina. I</p> <p>23 believe that was the day prior to he went to South</p> <p>24 Carolina and came back. And I wanted to put just --</p> <p>25 it's common for us to do a timeline of just as close</p>

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17 (Pages 62 to 65)

<p style="text-align: right;">62</p> <p>1 as we can minute by minute of the actions leading up 2 to the death. So we wanted to find out where his 3 whereabouts was leading up to that.</p> <p>4 And I believe he had just returned back 5 from South Carolina just prior to her death, so I was 6 trying to -- and there was -- now that I read this, 7 there was either text or phone calls between them two 8 back and forth while he was -- while he was in South 9 Carolina.</p> <p>10 Q. And who are you speaking to here when you 11 say "I want you to prepare a timeline"?</p> <p>12 A. This would be the primary case agent, which 13 would have been Agent Foxx at the time.</p> <p>14 Q. Going right back up to Item No. 8 that 15 says, quote, "Where are all the extractions of the 16 cell phones and memory cards? Get them on a CD and 17 post it to the file," end quote.</p> <p>18 So does that refresh your recollection at 19 all about whether you were aware of any text messages 20 at that time?</p> <p>21 A. It honestly doesn't, but it would tell me 22 that I read something to where it said that -- that 23 we did have cell phones and memory cards. But to the 24 best of my memory, I don't recall when we collected 25 phones and memory cards.</p>	<p style="text-align: right;">64</p> <p>1 Q. Okay. But is it correct that you're 2 telling Agent Foxx to go find out what that reason 3 was?</p> <p>4 A. Yes.</p> <p>5 Q. Do you know whether he found out what that 6 reason was?</p> <p>7 A. I don't recall.</p> <p>8 Q. As you sit here today, you don't know what 9 that reason was?</p> <p>10 A. I don't remember what the specific reason 11 they were released was, no.</p> <p>12 Q. Okay. Do you believe that you learned at 13 some point in time what the reason for his discharge 14 was?</p> <p>15 A. I don't want to say I don't recall. I know 16 there was coordination with West Point eventually, 17 but I don't remember what the outcome was.</p> <p>18 Q. Would it have been significant to you if he 19 was discharged for threatening the life of a fellow 20 cadet?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Would it be even more significant if 23 he had threatened the life of two cadets at West 24 Point?</p> <p>25 A. I would say it would be significant, yes.</p>
<p style="text-align: right;">63</p> <p>1 Q. Item No. 11, you said, quote, "Coordinate 2 with West Point and determine why they were both 3 released. Did she voluntarily leave because he was 4 released? Was he released because he refused to turn 5 in his friends for drinking," end quote.</p> <p>6 Do you recall what that was about?</p> <p>7 A. Briefly. What we were told at the time was 8 they had met each other at West Point and he was 9 released from the academy for some type of 10 disciplinary action. And what we were told was she 11 left voluntarily to go with him, and we wanted to 12 clarify if she, in fact, left voluntarily or if she 13 was released for some sort of other reasons.</p> <p>14 Any other -- I don't recall any other 15 reasons. That's what comes to mind as to why they -- 16 why they left, if it was disciplinary or other.</p> <p>17 Q. And is it correct that you were questioning 18 whether Aguigui's story about refusing to turn in his 19 friends for drinking, if that was the correct reason 20 for which he was discharged from West Point?</p> <p>21 A. I don't recall what the conclusion was why 22 he was released, because I remember there was also an 23 allegation of some sexual misconduct. But I don't 24 recall what the reason was that he was -- was 25 released.</p>	<p style="text-align: right;">65</p> <p>1 Q. What is the "IP"?</p> <p>2 A. Investigative plan.</p> <p>3 Q. Where is the IP kept for a case?</p> <p>4 A. So in the case file you have a left and 5 right side when you open it up and, on top of the 6 left side would be the investigative plan. That 7 would be basically your to-do list.</p> <p>8 Q. And as items are completed on the IP and 9 the IP gets updated, do some items that have already 10 been completed get lost from the file?</p> <p>11 A. Lost?</p> <p>12 Q. Yes. Or, well, another way to put it is, 13 are the old IPs ever discarded as the case 14 progresses?</p> <p>15 A. Not to my knowledge. Normally what we do 16 is we'll have a running IP and when items are 17 completed on there, they put the date they're 18 completed. But then when that's done, they should go 19 to the bottom and they would stay with the file.</p> <p>20 Q. So when you gave these instructions to 21 Agent Foxx, was your expectation that he would add 22 them to the IP to get them done?</p> <p>23 A. Normally, yes.</p> <p>24 Q. Do you know whether he added them to the 25 IP?</p>

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18 (Pages 66 to 69)

<p style="text-align: right;">66</p> <p>1 A. I don't recall.</p> <p>2 Q. And would you please flip to Page 59 of</p> <p>3 187?</p> <p>4 A. (Witness complies with the request of</p> <p>5 counsel).</p> <p>6 Q. The second entry here, it says "TC Review"</p> <p>7 and it's by Cassandra Ivery.</p> <p>8 A. Yes.</p> <p>9 Q. Did you earlier refer to her as</p> <p>10 Ms. Ivery-Morris?</p> <p>11 A. Her name is hyphenated.</p> <p>12 Q. Okay.</p> <p>13 A. In here it's Ivery, but it's Ivery-Morris.</p> <p>14 Q. Same person?</p> <p>15 A. Same person, yes.</p> <p>16 Q. Okay. And this is how long after your</p> <p>17 entry?</p> <p>18 A. Two weeks roughly? The 9th to the 24th.</p> <p>19 Q. And here -- well, I guess the first</p> <p>20 instruction is "Add all leads identified by last SAC</p> <p>21 review to the IP."</p> <p>22 So is it fair to infer that at that point</p> <p>23 in time the IP had not been updated with your</p> <p>24 instructions?</p> <p>25 A. It's --</p>	<p style="text-align: right;">68</p> <p>1 common, quarterly inspection of the office, and they</p> <p>2 would pull a certain number of files to review. But</p> <p>3 as a forensic science officer, he would be</p> <p>4 responsible for conducting a review of all death</p> <p>5 investigations. So it looks like he was just putting</p> <p>6 his comment in here.</p> <p>7 Yes, this would be a standard review</p> <p>8 comment.</p> <p>9 Q. And one of the things that references is</p> <p>10 that there was a face-to-face review with SA Ivery --</p> <p>11 A. Yes, sir.</p> <p>12 Q. -- and, quote, "discussed her concerns."</p> <p>13 Do you recall what those concerns were?</p> <p>14 A. No, sir, I do not.</p> <p>15 Q. I think you indicated that "FSO" stands for</p> <p>16 forensic science officer?</p> <p>17 A. Yes.</p> <p>18 Q. What does "BN" stand for?</p> <p>19 A. Battalion.</p> <p>20 Q. And "SAV"?</p> <p>21 A. Staff assistance visit, which would be the</p> <p>22 quarterly visits where they go to each office and</p> <p>23 pull a certain number of files.</p> <p>24 Q. Okay. And "ICI"?</p> <p>25 A. Initial command inspection. So when I took</p>
<p style="text-align: right;">67</p> <p>1 MS. JOHNSON: Objection.</p> <p>2 THE WITNESS: -- really hard to say.</p> <p>3 BY MR. BROOK:</p> <p>4 Q. In your experience, do your team chiefs</p> <p>5 give instructions about what to add to the IP before</p> <p>6 looking at the IP?</p> <p>7 A. No. It's hard to say if he didn't put any</p> <p>8 of them on the IP or only a number of them.</p> <p>9 Q. Understood.</p> <p>10 Please turn to Page 64.</p> <p>11 A. (Witness complies with the request of</p> <p>12 counsel).</p> <p>13 Q. The first entry there is by Darren.</p> <p>14 A. Succone.</p> <p>15 Q. Who is Darren Succone?</p> <p>16 A. He was our battalion forensic science</p> <p>17 officer, so he would have been out of Fort Benning at</p> <p>18 the battalion.</p> <p>19 Q. And what was he doing here at this entry?</p> <p>20 A. I have to read it (reading document).</p> <p>21 I'm sorry. The question again?</p> <p>22 Q. What was the purpose of this entry?</p> <p>23 A. If they did a face-to-face interview, I</p> <p>24 would assume that they had probably come down for a</p> <p>25 face-to-face inspection of the office, which is</p>	<p style="text-align: right;">69</p> <p>1 over in October, as a new agent in charge for</p> <p>2 detachment commander, within the first 90 days, your</p> <p>3 higher headquarters, which would be the battalion,</p> <p>4 comes and does an initial command inspection. They</p> <p>5 do an overall look at your unit, and then within one</p> <p>6 year, they will do a subsequent inspection to see if</p> <p>7 you've progressed or went the other way.</p> <p>8 So this would have been an initial command</p> <p>9 inspection of me at the office.</p> <p>10 Q. And about a year later you got promoted,</p> <p>11 right?</p> <p>12 A. No, sir. I -- I came here as a CW4.</p> <p>13 Q. You just moved to a different position?</p> <p>14 A. Yes. Position move, yeah.</p> <p>15 Q. But is your current position supervisory of</p> <p>16 the current SAC at the Fort Stewart base?</p> <p>17 A. So now we're at a group level, so we would</p> <p>18 be over the battalion who supervises the office. So</p> <p>19 technically we're over 40 offices. But I wouldn't</p> <p>20 say it's direct supervisory guidance. We do conduct</p> <p>21 our own inspections down to the office level, but our</p> <p>22 role is more now quality assurance reviews. But we</p> <p>23 will provide guidance needed, but it's more holistic</p> <p>24 quality assurance reviews than looking for systematic</p> <p>25 problems.</p>

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19 (Pages 70 to 73)

<p style="text-align: right;">70</p> <p>1 Q. So when you do a quality assurance review,</p> <p>2 you're not telling someone what to do, you're giving</p> <p>3 them advice; is that fair to say?</p> <p>4 A. We can -- are you talking about my position</p> <p>5 now?</p> <p>6 Q. Yes.</p> <p>7 A. So my position now is we generally review a</p> <p>8 case after it's been completed. So then we'll --</p> <p>9 we'll look at it after the whole thing has been</p> <p>10 final, or closed, and then we'll do a complete review</p> <p>11 of the whole case and conduct a quality assurance</p> <p>12 review and provide guidance. If it does need to be</p> <p>13 reopened, we'll direct down through the battalion</p> <p>14 through the office that they would need to reopen it.</p> <p>15 What we generally concentrate on is the -- what we</p> <p>16 talked about before, with the unfounded cases, to see</p> <p>17 if there's anything that was missed. That's our main</p> <p>18 concern.</p> <p>19 Q. Was a quality assurance review ever</p> <p>20 conducted on any of the cases involving Isaac</p> <p>21 Aguigui?</p> <p>22 A. Well, battalion reviews are quality</p> <p>23 assurance reviews, yes. And when Mr. Turso did a</p> <p>24 review, that would be -- in a sense it's a quality</p> <p>25 assurance review. It's a supervisory review. It is</p>	<p style="text-align: right;">72</p> <p>1 A. That would have changed the outcome of</p> <p>2 anything that occurred, I do not.</p> <p>3 Q. And, again, that's based on not having done</p> <p>4 a review, though, correct?</p> <p>5 A. Correct.</p> <p>6 Q. Have you talked with anyone aside from the</p> <p>7 lawyer sitting next to you about whether CID did</p> <p>8 anything right or wrong in connection with any of the</p> <p>9 Aguigui investigations?</p> <p>10 A. No.</p> <p>11 Q. Turning to Page 77 of this Exhibit 13.</p> <p>12 A. (Witness complies with the request of</p> <p>13 counsel).</p> <p>14 Q. Rather, 75 to 77. This is the entry by</p> <p>15 Larry Turso that you had referred to earlier.</p> <p>16 A. Okay.</p> <p>17 Q. I want to direct your attention to the line</p> <p>18 at the bottom of Page 76 and the first line on the</p> <p>19 top of Page 77. It says, quote, "Good call by</p> <p>20 Mr. Toole on delaying payment. How did we screw this</p> <p>21 up? Perhaps we need to look into freezing his</p> <p>22 accounts."</p> <p>23 Do you recall this statement?</p> <p>24 A. I don't specifically recall this, but I can</p> <p>25 discuss it.</p>
<p style="text-align: right;">71</p> <p>1 above our level, so it's -- yes.</p> <p>2 Q. Besides Mr. Turso's review and the phone</p> <p>3 call that you had with him afterwards, was there any</p> <p>4 other quality assurance review conducted on any of</p> <p>5 these cases?</p> <p>6 A. I don't recall off the top of my head;</p> <p>7 however, at one point, I believe it was May of 2012,</p> <p>8 where we had a -- a shift within CID so we no</p> <p>9 longer -- in May, we no longer fell under the Benning</p> <p>10 battalion. In May we fell under the Fort Bragg</p> <p>11 battalion, so that would have been under a different</p> <p>12 battalion operations officer.</p> <p>13 Q. Have you at any point in time in the last</p> <p>14 several years taken a look back at any of the</p> <p>15 Aguigui-related cases, based on your experience now</p> <p>16 in reviewing other people's cases, and tried to</p> <p>17 assess what went wrong here?</p> <p>18 A. I have --</p> <p>19 MS. JOHNSON: Objection.</p> <p>20 Mischaracterizes the evidence.</p> <p>21 THE WITNESS: I have not looked at</p> <p>22 the case.</p> <p>23 BY MR. BROOK:</p> <p>24 Q. Do you think that CID made any mistakes in</p> <p>25 connection with any of the Aguigui investigations?</p>	<p style="text-align: right;">73</p> <p>1 Q. Do you know whether this was something that</p> <p>2 you or anyone in your office responded to try to look</p> <p>3 into answering Mr. Turso's question?</p> <p>4 A. This was in November -- or December.</p> <p>5 Sorry. So to the best of my recollection, we did,</p> <p>6 but it was the other agency who was able to</p> <p>7 successfully get the accounts frozen. But I don't</p> <p>8 remember which agency that was.</p> <p>9 Q. As far as his first question, was regarding</p> <p>10 delaying payment, he asked, "How did we screw this</p> <p>11 up?"</p> <p>12 Is that something that you looked into or</p> <p>13 had someone look into?</p> <p>14 A. I had spoken with Mr. Toole regarding his</p> <p>15 conversation with the CAO, and I remember my</p> <p>16 conversation with the CAO where we said he was a</p> <p>17 person of interest. And that would be a call for an</p> <p>18 answer that the CAO needs to address. But I do know</p> <p>19 when I had my conversation with the CAO, we did</p> <p>20 advise that he was a person of interest. But we have</p> <p>21 no say in whether a death gratuity or the SGLI gets</p> <p>22 paid. We have no call in that whatsoever.</p> <p>23 Q. You do have an information-providing role,</p> <p>24 though, in those decisions?</p> <p>25 A. Yes. We -- we were able to tell them he</p>

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20 (Pages 74 to 77)

<p style="text-align: right;">74</p> <p>1 was a person of interest. But the decision to make</p> <p>2 payment would not be on us. And we can --</p> <p>3 Q. And when did -- sorry.</p> <p>4 A. We can -- we can tell them, at least,</p> <p>5 that -- if he was a subject or a person of interest,</p> <p>6 in which we could tell he was a person of interest at</p> <p>7 the time.</p> <p>8 Q. And, to your knowledge, was Private Aguigui</p> <p>9 at any time not a person of interest in his wife's</p> <p>10 death?</p> <p>11 A. To my knowledge he was always a person of</p> <p>12 interest from the -- from the death of Sergeant</p> <p>13 Aguigui.</p> <p>14 Q. When did you speak to Agent Toole about</p> <p>15 what he had said to the casualty affairs office?</p> <p>16 A. It would have been subsequent to my</p> <p>17 receiving a phone call from the CAO, because she had</p> <p>18 told me about the payment and I had asked her what</p> <p>19 was annotated and she said that her annotation,</p> <p>20 whoever Mr. Toole talked to, was that he was not a</p> <p>21 person of interest. And I said he was still, and I</p> <p>22 talked to Mr. Toole and he said he told them that</p> <p>23 Private Aguigui was a person of interest.</p> <p>24 Q. Did you make any judgment calls about</p> <p>25 whether Agent Toole was telling you the truth or not?</p>	<p style="text-align: right;">76</p> <p>1 files and they added an annotated where Mr. Toole had</p> <p>2 said was not a person of interest. And we discussed</p> <p>3 that and I said, no, he had always been. So that's</p> <p>4 the extent of the conversation that I recall.</p> <p>5 Q. Are you aware of whether Private Aguigui</p> <p>6 ever claimed to have corrupted a CID agent?</p> <p>7 A. I don't recall that.</p> <p>8 Q. You don't recall whether --</p> <p>9 A. I don't recall hearing that.</p> <p>10 Q. Is that something that you would have</p> <p>11 responded to and investigated if you had heard</p> <p>12 someone making the allegation?</p> <p>13 A. Possibly. It depends on what the exact</p> <p>14 allegation was.</p> <p>15 Q. Okay. Just to ask if it refreshes your</p> <p>16 recollection, do you recall a statement by Private</p> <p>17 Aguigui reported by another person as being made that</p> <p>18 he had a CID agent in his pocket?</p> <p>19 A. I don't recall that.</p> <p>20 MR. BROOK: Let's mark this as</p> <p>21 Exhibit 33.</p> <p>22 (Plaintiffs' Exhibit No. 33 marked</p> <p>23 for identification.)</p> <p>24 BY MR. BROOK:</p> <p>25 Q. I'm showing you Exhibit 33, which bears</p>
<p style="text-align: right;">75</p> <p>1 A. I didn't doubt his word.</p> <p>2 Q. Did you look into whether someone at the</p> <p>3 CAO had been potentially corrupted into making a</p> <p>4 payment that they should not have?</p> <p>5 A. No.</p> <p>6 Q. So what did you conclude about the reason</p> <p>7 why the payment was made?</p> <p>8 A. A miscommunication or an annotation that</p> <p>9 was incorrect on the -- on the CAO. I concluded it</p> <p>10 was a misannotation from the CAO or misunderstanding</p> <p>11 of a person of interest.</p> <p>12 Q. Did you personally ever speak with the</p> <p>13 person who had made the annotation for the CAO?</p> <p>14 A. I remember at least one phone call with the</p> <p>15 CAO, but I don't know if that was the same person</p> <p>16 that talked with Mr. Toole. I only remember my</p> <p>17 conversation with one individual at the CAO.</p> <p>18 Q. And what do you remember about the</p> <p>19 individual that you spoke to?</p> <p>20 A. I don't recall a name. I know it was a</p> <p>21 female that I talked to, and I don't know -- for some</p> <p>22 reason, I want to believe that she was not in</p> <p>23 Georgia, that she was out of state. But specifically</p> <p>24 what I remember is telling her that she (sic) was a</p> <p>25 person of interest, and then she looked back in her</p>	<p style="text-align: right;">77</p> <p>1 Bates numbers DA0001 through DA00012.</p> <p>2 Do you recognize that document?</p> <p>3 A. No, sir.</p> <p>4 Q. Have you ever seen a document like this?</p> <p>5 A. Not exactly like this, no, sir.</p> <p>6 Q. What have you seen that is similar to this?</p> <p>7 A. I'm trying to think if it looks like a</p> <p>8 TALON report or something that the FBI would put out.</p> <p>9 I don't recognize this, no.</p> <p>10 Q. Okay. At the top right on the first page</p> <p>11 it has some sort of an emblem saying "CTD." Do you</p> <p>12 know what that may stand for?</p> <p>13 A. No.</p> <p>14 Q. Below it says counter-terrorism assessment.</p> <p>15 A. Okay.</p> <p>16 Q. Does that mean anything to you?</p> <p>17 A. I don't know who would have generated it.</p> <p>18 Q. Turning to the last page, there's a black</p> <p>19 bar referring to Sentinel uploads. Do you know what</p> <p>20 Sentinel is?</p> <p>21 A. I don't recall. I believe it's a database,</p> <p>22 but I don't recall.</p> <p>23 Q. Do you know which agency maintains that</p> <p>24 database?</p> <p>25 A. I'd say it should be the FBI, I believe. I</p>

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21 (Pages 78 to 81)

<p style="text-align: right;">78</p> <p>1 don't recall.</p> <p>2 Q. I don't have any more questions about that.</p> <p>3 MR. BROOK: Let's mark this Exhibit</p> <p>4 34.</p> <p>5 (Plaintiffs' Exhibit No. 34 marked</p> <p>6 for identification.)</p> <p>7 BY MR. BROOK:</p> <p>8 Q. I'm showing you Exhibit 34, which you're</p> <p>9 seeing is Bates numbers JAHR0043521 through</p> <p>10 JAHR0043529.</p> <p>11 Have you seen this document before?</p> <p>12 A. This exact one or --</p> <p>13 Q. This case, it says --</p> <p>14 A. Case activity summary. I'm familiar with</p> <p>15 case activity summary, yes, but not this</p> <p>16 investigation.</p> <p>17 Q. Okay. Do you know which CID office would</p> <p>18 be CID 016?</p> <p>19 A. Not off the top of my head, no.</p> <p>20 Q. Do different CID offices have access to</p> <p>21 case activity summaries that are generated by other</p> <p>22 offices?</p> <p>23 A. Yes.</p> <p>24 Q. At any point in time did you look at the</p> <p>25 case activity summary that was generated in</p>	<p style="text-align: right;">80</p> <p>1 agents went with me.</p> <p>2 Q. In this entry, does any of this entry sound</p> <p>3 incorrect based upon what your knowledge was of</p> <p>4 Justin Kapinus's assessment of Aguigui at that time?</p> <p>5 A. No.</p> <p>6 Q. Do you have an understanding of why Justin</p> <p>7 Kapinus characterized Aguigui as very intelligent and</p> <p>8 deceptive?</p> <p>9 MS. JOHNSON: Objection.</p> <p>10 THE WITNESS: I don't know his</p> <p>11 rationale.</p> <p>12 BY MR. BROOK:</p> <p>13 Q. Did you ever discuss with Agent Kapinus at</p> <p>14 or around the time of this entry, September 30th,</p> <p>15 2011, whether Aguigui was a credible person?</p> <p>16 A. I don't recall specific conversation about</p> <p>17 that.</p> <p>18 Q. How important is an experienced agent like</p> <p>19 Justin Kapinus's assessment of a person's credibility</p> <p>20 to you?</p> <p>21 A. I would trust his assessment.</p> <p>22 Q. Have you ever heard Agent Kapinus refer to</p> <p>23 anyone as deceptive?</p> <p>24 A. Not that I recall.</p> <p>25 Q. So it's not something he commonly</p>
<p style="text-align: right;">79</p> <p>1 connection with the Fort Lewis assistance on the</p> <p>2 Aguigui gun purchases in Washington State?</p> <p>3 A. I don't recall.</p> <p>4 Q. If you would, please turn to the second</p> <p>5 page of this document. There's an entry there that</p> <p>6 I'll read aloud for the record. "Coordinated with SA</p> <p>7 Justin Kapinus, Fort Stewart CID Office, who related</p> <p>8 that PFC Aguigui was a West Point dropout and is very</p> <p>9 intelligent and deceptive. He is not militant, but</p> <p>10 undisciplined. He purchased security guard uniforms</p> <p>11 and stated that he was going to open a security guard</p> <p>12 business upon discharge from the Army."</p> <p>13 Does that refresh your recollection at all</p> <p>14 about who the other agent that you had involved with</p> <p>15 you on the Aguigui gun purchases matter was?</p> <p>16 A. Like I said before, Agent Foxx and Agent</p> <p>17 Kapinus were the primary agents on -- on the cases</p> <p>18 regarding Aguigui. Any other agents in the office, I</p> <p>19 don't recall, that had direct involvement.</p> <p>20 Q. I'm asking specifically, was Justin Kapinus</p> <p>21 the agent -- now having read this, do you recall</p> <p>22 whether he was the agent who went with you to speak</p> <p>23 to Aguigui?</p> <p>24 A. To the staff major? I don't remember. I</p> <p>25 know I wasn't alone, but I don't remember which</p>	<p style="text-align: right;">81</p> <p>1 characterizes people as being?</p> <p>2 MS. JOHNSON: Objection.</p> <p>3 Mischaracterizes his testimony.</p> <p>4 THE WITNESS: Not that I recall.</p> <p>5 MR. BROOK: Let's mark this as</p> <p>6 Exhibit 35.</p> <p>7 (Plaintiffs' Exhibit No. 35 marked</p> <p>8 for identification.)</p> <p>9 BY MR. BROOK:</p> <p>10 Q. What's been marked as Exhibit 35 is the CAO</p> <p>11 Staff Journal, Bates numbered JAHR0043386 through</p> <p>12 JAHR0043515.</p> <p>13 Have you ever seen this document before?</p> <p>14 A. No, sir.</p> <p>15 Q. Have you seen a document like this before,</p> <p>16 a staff journal from the CAO?</p> <p>17 A. From the CAO? No, not that I recall.</p> <p>18 Q. Is the staff journal a type of form that is</p> <p>19 used by groups or departments other than the CAO?</p> <p>20 A. Yes. General staff journals, yes.</p> <p>21 Q. Okay. Are the staff journals of the CAO</p> <p>22 available to or accessible to CID?</p> <p>23 A. We would have to go through the request</p> <p>24 process just like any other agency, but, yes, they</p> <p>25 would be available.</p>

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22 (Pages 82 to 85)

<p style="text-align: right;">82</p> <p>1 Q. But is it fair to say that it's not as</p> <p>2 readily available as a CAS from another CID office?</p> <p>3 A. Correct. They're a different agency.</p> <p>4 Q. For a CAS, do you need to put in any sort</p> <p>5 of request to see what another office has created?</p> <p>6 A. No. I have access to those on our</p> <p>7 database.</p> <p>8 Q. Would you please turn to what's marked on</p> <p>9 the bottom left-hand side of the page as Page 70 of</p> <p>10 130?</p> <p>11 A. (Witness complies with the request of</p> <p>12 counsel).</p> <p>13 Q. There's an entry in staff journal dated</p> <p>14 November 30th, 2011, and it refers to a CID ROI</p> <p>15 dated, 29 November 2011, second status report. And</p> <p>16 then it has a bunch of lines of text below that in</p> <p>17 all caps.</p> <p>18 Is this, as far as you can tell, text that</p> <p>19 is taken directly from a CID ROI?</p> <p>20 A. It appears to be, yes.</p> <p>21 Q. And where are CID ROIs made available to</p> <p>22 the CAO that it would end up in this staff journal?</p> <p>23 A. I don't know how they would have obtained a</p> <p>24 copy. I don't recall putting them on a distri line</p> <p>25 when we sent it out. I don't know who would have</p>	<p style="text-align: right;">84</p> <p>1 of 2011 and this --</p> <p>2 A. July --</p> <p>3 Q. -- is sent in November?</p> <p>4 A. So, yes, that would be in line.</p> <p>5 Q. And you may have already said this, but who</p> <p>6 was, at the time, in December of 2011, the Benning</p> <p>7 CID battalion operations officer?</p> <p>8 A. I believe it was still Larry Turso.</p> <p>9 Q. Would you please turn to Page 73 of 130?</p> <p>10 A. (Witness complies with the request of</p> <p>11 counsel).</p> <p>12 Q. And this is -- the second entry there is</p> <p>13 referring to something on December 15th, 2011, and it</p> <p>14 says CID ROI, dated 14 December 2011, third status</p> <p>15 report.</p> <p>16 Does this also look like the text of a CID</p> <p>17 ROI to you?</p> <p>18 A. Yes, it looks like it.</p> <p>19 Q. Okay. It says, "This report identifies PFC</p> <p>20 Aguigui as the subject of murder. The special agent</p> <p>21 in charge and the Benning CID Battalion Operations</p> <p>22 Officer determined that there was more than</p> <p>23 sufficient credible information to believe PFC</p> <p>24 Aguigui murdered his wife and their unborn child."</p> <p>25 I'm not going to read the rest. But what</p>
<p style="text-align: right;">83</p> <p>1 provided them a copy.</p> <p>2 Q. Was it common practice to provide ROIs to</p> <p>3 the CAO in connection with a death investigation?</p> <p>4 A. Not to my knowledge, no.</p> <p>5 Q. Do you recall having provided an ROI to the</p> <p>6 CAO?</p> <p>7 A. I don't recall providing them a copy.</p> <p>8 Q. It says "second status report." So</p> <p>9 assuming that this text is the same thing as on a CID</p> <p>10 ROI, what does it mean to be a second status report?</p> <p>11 A. Well, the initial report would have been</p> <p>12 sent out within 24 hours of the -- of the death, or</p> <p>13 of us being reported of the death. That would be the</p> <p>14 initial report. Any subsequent reports on top of</p> <p>15 that that weren't the leadership knowing would be a</p> <p>16 second, third, fourth status reports. Any continuing</p> <p>17 reports would be so numbered.</p> <p>18 Q. Is there any sort of time frame or</p> <p>19 guidelines in which you're supposed to issue a second</p> <p>20 status report after opening an ROI?</p> <p>21 A. On death investigations and serious sexual</p> <p>22 assaults, generally after the initial report is sent</p> <p>23 out, 120 days later we usually do an investigative</p> <p>24 update should be the second report.</p> <p>25 Q. So in this case, the death occurred in July</p>	<p style="text-align: right;">85</p> <p>1 was it that -- let me first ask this: Is that a</p> <p>2 correct statement about what your opinion was at the</p> <p>3 time, mid-December 2011?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. This was after having had a phone</p> <p>6 call with Larry Turso where you informed him, or you</p> <p>7 convinced him, you say that he -- that there was not</p> <p>8 sufficient credible information earlier; is that</p> <p>9 right?</p> <p>10 A. Enough to list him as a subject, yes.</p> <p>11 Q. Okay. So what was the new evidence that</p> <p>12 you considered?</p> <p>13 A. I don't recall off the top of my head what</p> <p>14 transpired between November and December. I do just</p> <p>15 know it was a lot of just circumstantial evidence</p> <p>16 that we had. It was just -- at the time it was</p> <p>17 enough to get to the credible information threshold</p> <p>18 and list him, but I don't recall off the top of my</p> <p>19 head what the triggering mechanism -- or what the</p> <p>20 triggering information was that said, yes, we can put</p> <p>21 him in now.</p> <p>22 Q. Okay. Was this text that you were involved</p> <p>23 in writing or reviewing before it was submitted?</p> <p>24 A. Yes.</p> <p>25 Q. So at that point it wasn't just that you</p>

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23 (Pages 86 to 89)

<p style="text-align: right;">86</p> <p>1 met the credible information standard; there was more</p> <p>2 than sufficient credible information, right?</p> <p>3 A. Yes.</p> <p>4 Q. Did you ever speak with Sergeant First</p> <p>5 Class Lapsley?</p> <p>6 A. The name is familiar, but I don't recall.</p> <p>7 Q. The casualty assistance officer assigned to</p> <p>8 Private Aguigui?</p> <p>9 A. Okay.</p> <p>10 Q. Does that ring a bell now?</p> <p>11 A. I would have spoken with the casualty</p> <p>12 assistance officer that was assigned to him, but I</p> <p>13 don't remember any specific conversations.</p> <p>14 Q. Are you familiar with the CID Regulation</p> <p>15 195-1?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Am I correct that it's Chapter 16-1</p> <p>18 that covers death investigations?</p> <p>19 A. Chapter 16 covers deaths, yes.</p> <p>20 Q. Are there any other chapters that are</p> <p>21 relevant when you're conducting a death</p> <p>22 investigation?</p> <p>23 A. There are several that would be relevant to</p> <p>24 any case. Chapter 16 is specific for deaths and</p> <p>25 specific actions, but Chapters 4 through 8 are</p>	<p style="text-align: right;">88</p> <p>1 Q. So other than comparing 4 against Chapter</p> <p>2 16, is there any other way you would know that text</p> <p>3 that's in Chapter 16 is also in Chapter 4?</p> <p>4 A. In the same regulation?</p> <p>5 Q. Yes.</p> <p>6 A. I guess I'm not understanding your</p> <p>7 question. I thought -- that's what I meant.</p> <p>8 Q. If someone was an outsider --</p> <p>9 A. Yes.</p> <p>10 Q. -- and trying to understand how CID does</p> <p>11 its job --</p> <p>12 A. Yes.</p> <p>13 Q. -- in a death investigation, would it be</p> <p>14 sufficient for that person to read Chapter 16 and</p> <p>15 nothing else?</p> <p>16 A. No.</p> <p>17 Q. What else would you need to see?</p> <p>18 A. Like I said, you would need to do a</p> <p>19 holistic look at it, how we conduct an investigation.</p> <p>20 You know, like Chapter 5 deals with interviews and</p> <p>21 the conduct of victim and subject interviews.</p> <p>22 Chapter 8 would be the report-writing and how you</p> <p>23 document. So you wouldn't be able to look at one</p> <p>24 chapter and know how to investigate a death case from</p> <p>25 start to finish, no.</p>
<p style="text-align: right;">87</p> <p>1 report-writing and how you document things and</p> <p>2 interviews of subjects and witnesses and things. So,</p> <p>3 yes, there are other chapters that are relevant.</p> <p>4 Q. And is it correct that things that are</p> <p>5 generally stated in some of those other chapters</p> <p>6 would not be repeated in Chapter 16?</p> <p>7 A. It could be.</p> <p>8 Q. It could be, but not necessarily?</p> <p>9 A. I can't tell you for sure off the top of my</p> <p>10 head, but there are instances where, yes, the</p> <p>11 regulation does repeat itself word for word from one</p> <p>12 chapter to another, so, yes, it could happen.</p> <p>13 Q. Okay. And how would you determine whether</p> <p>14 there were different regulations between, say,</p> <p>15 Chapter 4 and Chapter 16?</p> <p>16 A. Oh, I'm talking about the same regulation.</p> <p>17 Q. Oh, okay.</p> <p>18 A. You're talking about, like, Chapter 16 may</p> <p>19 be word for word from something from Chapter 4. Not</p> <p>20 a different regulation, no. Sorry. I misunderstood</p> <p>21 you.</p> <p>22 Q. I understand then. I was misspeaking.</p> <p>23 So Chapter 4 might have something word for</p> <p>24 word that's in Chapter 16?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">89</p> <p>1 Q. And so the entire regulation is pretty</p> <p>2 huge; is that right?</p> <p>3 A. Yes.</p> <p>4 Q. How often do you refer back to it in your</p> <p>5 job?</p> <p>6 A. I would say for working, daily.</p> <p>7 Q. In connection with death investigations, is</p> <p>8 it correct that the regulation specifies that the</p> <p>9 manner of death is determined by the special agent in</p> <p>10 charge?</p> <p>11 MS. JOHNSON: You might need to give</p> <p>12 him a regulation rather than asking him from</p> <p>13 memory.</p> <p>14 MR. BROOK: I'm just asking if he</p> <p>15 knows.</p> <p>16 THE WITNESS: Well, a determination</p> <p>17 is made in conjunction with the autopsy report</p> <p>18 and the death certificate, what the cause and</p> <p>19 manner would be. And normally how we word it</p> <p>20 is the determination is made by either the AFME</p> <p>21 or what's on the death certificate and we</p> <p>22 concur with that decision, so...</p> <p>23 BY MR. BROOK:</p> <p>24 Q. In the case of Deirdre Aguigui's death, at</p> <p>25 the time when the SAC determined that her death was a</p>

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24 (Pages 90 to 93)

<p style="text-align: right;">90</p> <p>1 homicide, you were no longer the SAC at Fort Stewart; 2 is that right?</p> <p>3 A. In December of '12?</p> <p>4 Q. When did --</p> <p>5 A. I'm sorry.</p> <p>6 Q. When did -- do you know when Deirdre 7 Aguigui's death was declared a homicide?</p> <p>8 A. It was after I left, yes.</p> <p>9 Q. So is it fair to say, then, that you did 10 not determine her manner of death to be a homicide as 11 the SAC --</p> <p>12 A. I did not, no.</p> <p>13 Q. Okay. Were you asked to do so?</p> <p>14 A. No. That would have been my predecessor.</p> <p>15 Q. And that was Agent Toole?</p> <p>16 A. I'm sorry. The one that replaced me.</p> <p>17 Q. Successor.</p> <p>18 A. Yeah. Would have been Agent -- successor.</p> <p>19 Sorry. Yeah, it would have been Agent Yeatts, 20 Y-E-A-T-T-S. Sorry.</p> <p>21 Q. Do you --</p> <p>22 A. When was the determination made? I can 23 tell you if I was at the office or not then.</p> <p>24 Q. I --</p> <p>25 A. I don't recall.</p>	<p style="text-align: right;">92</p> <p>1 while. I don't recall their names.</p> <p>2 Q. Do you know whether the CID regulation 3 195-1 requires you to have face-to-face coordination 4 with the SJA?</p> <p>5 A. On certain cases, yes.</p> <p>6 Q. And for death cases, is that the case?</p> <p>7 A. Yes, when we're trying to get the opine, 8 the legal opinion, it requires face-to-face.</p> <p>9 Q. And in this case, how was that requirement 10 met?</p> <p>11 A. I don't recall. That would be a 12 determination before the case was closed, and I 13 believe when I left the office the case was still 14 open.</p> <p>15 Q. Going back to the time period after the 16 deaths of Michael Roark and Tiffany York --</p> <p>17 A. Yes.</p> <p>18 Q. -- when GBI was conducting an investigation 19 along with other agencies --</p> <p>20 A. After the deaths.</p> <p>21 Q. -- did CID have an ROI for purposes of 22 trying to identify possible insurgents or militants 23 or terrorists within the Army?</p> <p>24 A. At the Fort Stewart office?</p> <p>25 Q. Yes.</p>
<p style="text-align: right;">91</p> <p>1 MS. JOHNSON: He doesn't know.</p> <p>2 BY MR. BROOK:</p> <p>3 Q. I'm not -- yeah, I'm not going to testify 4 on that.</p> <p>5 A. Oh, sorry.</p> <p>6 Q. If you don't recall making it, then that's 7 fine for your testimony.</p> <p>8 A. When we listed him as the subject, that 9 would have been in December of 2011. I was -- I was 10 the SAC then. But I don't remember what the offense 11 we used was at the time because there was still work 12 for several more months with -- in conjunction 13 with -- in cooperation with the GBI.</p> <p>14 Q. Did you ever speak with Isabel Pauly?</p> <p>15 A. I don't recall.</p> <p>16 Q. Do you recall the names of anyone 17 associated with the State of Georgia, GBI or DA's 18 office that you interacted with?</p> <p>19 A. Specifically by name, no, I don't.</p> <p>20 Q. Did you interact with some people from 21 those offices?</p> <p>22 A. Some, yes. There was two or three that 23 came down right after the -- the deaths. I don't 24 remember their names. It was at least one male and 25 one female. And we worked with them closely for a</p>	<p style="text-align: right;">93</p> <p>1 A. No.</p> <p>2 Q. Were you aware that -- or were you aware of 3 whether any soldiers had indicated that there had 4 been sort of an antigovernment group formed within 5 the Army at Fort Stewart?</p> <p>6 A. Not that I recall.</p> <p>7 Q. Is investigating extremism within the 8 purview of CID?</p> <p>9 A. Yes.</p> <p>10 Q. Is there any other office within the Army 11 or agency in the Army that would have responsibility 12 for investigating that?</p> <p>13 A. For the local area, would normally be the 14 local office.</p> <p>15 Q. Of CID?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Do MPs investigate extremism?</p> <p>18 A. No. That should fall under CID's purview.</p> <p>19 Q. And just to be clear, to your knowledge, 20 there was never an extremism investigation that was 21 conducted by CID while you were SAC there regarding 22 people associated with (inaudible); is that right?</p> <p>23 THE COURT REPORTER: Associated with 24 what?</p> <p>25 MR. BROOK: Isaac Aguigui.</p>

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25 (Pages 94 to 96)

<p style="text-align: right;">94</p> <p>1 (Thereupon, the court reporter requests 2 clarification.) 3 THE WITNESS: Correct. 4 BY MR. BROOK: 5 Q. Okay. 6 MR. BROOK: Give me just one 7 second. 8 (Recess, 11:51 a.m.) 9 (Reconvened, 11:43 a.m.) 10 MR. BROOK: No further questions by 11 me. 12 Kristin, anything you want to put on the 13 record? 14 MS. JOHNSON: No. 15 MR. BROOK: Thank you. 16 (Whereupon, there was an off-the-record 17 discussion.) 18 MS. JOHNSON: We'll read. 19 (Thereupon, the deposition was concluded at 20 11:43 a.m. and signature was reserved.) 21 22 - - - 23 24 25</p>	<p style="text-align: right;">96</p> <p style="text-align: center;">1 CERTIFICATE 2 3 STATE OF GEORGIA: 4 GEORGIA, PIERCE COUNTY: 5 6 I, Barbara J. Memory, Certified Court 7 Reporter, State of Georgia, Certificate No. B-2063, 8 CERTIFY that acting in such capacity, I reported the 9 testimony herein, and on the foregoing pages have 10 transcribed a true and correct transcript thereof. A 11 review of the transcript was requested. 12 I FURTHER CERTIFY that I am not counsel 13 for, nor am I related to any party to the above case; 14 nor am I interested in the event or outcome. 15 WITNESS my hand and official seal as 16 Certified Court Reporter, State of Georgia, 17 Certificate No. B-2063 this 1st day of November 2016. 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">_____ Barbara J. Memory, RPR, CCR Certificate No. B-2063</p>
<p style="text-align: right;">95</p> <p>1 DISCLOSURE 2 STATE OF GEORGIA: 3 COUNTY OF PIERCE: 4 Regulations of the Board of Court Reporting of the 5 Judicial Council of Georgia, I make the following 6 disclosure: 7 I am a Georgia Certified Court Reporter and 8 Registered Professional Reporter, reporting for 9 Memory Reporting, Inc., P.O. Box 453, Blackshear, 10 Georgia 31516, 912.449.8486. 11 12 Memory Reporting, Inc. is not disqualified 13 from a relationship of interest under the provisions 14 of O.C.G.A. 9-11-28(c). 15 16 Memory Reporting, Inc. was contacted by the 17 offices of Henderson Legal Services to provide court 18 reporting services for this deposition. 19 20 Memory Reporting, Inc. will not be taking 21 this deposition under any contract that is prohibited 22 by O.C.G.A. 15-14-37 (a) and (b). 23 24 Memory Reporting, Inc. has no exclusive 25 contract to provide reporting services with any party to the case, any counsel in the case, or any reporter or reporting agency from whom a referral might have been made to cover this deposition. Memory Reporting, Inc. will charge its usual and customary rates to all parties in the case, and a financial discount will not be given to any party to this litigation. A review of the transcript was requested. _____ Barbara J. Memory, RPR, CCR Certificate No. B-2063</p>	<p style="text-align: right;">96</p> <p style="text-align: center;">1 ACKNOWLEDGMENT OF DEPONENT 2 3 4 5 I, _____, do hereby 6 acknowledge that I have read and examined the 7 foregoing testimony, and the same is a true, correct 8 and complete transcription of the testimony given by 9 me, and any corrections appear on the attached Errata 10 Sheet signed by me. 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">_____ (DATE) (SIGNATURE)</p>

Henderson Legal Services, Inc.

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A	78:14,15,21	29:13,14,15	45:22 46:9	54:21 55:1
a-hundred-a...	78:25	30:5,11,12	46:18 49:20	annotated
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